

# Accountancy

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JULY 1955



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# Accountancy

FORMERLY THE INCORPORATED ACCOUNTANTS' JOURNAL. ESTABLISHED 1889

VOL. LXVI (VOL 17 NEW SERIES)

JULY 1955

NUMBER 743

*The Annual Subscription to ACCOUNTANCY is £1 1s., which includes postage to all parts of the world. The price of a single copy is 2s., postage extra. All communications to be addressed to the Editor, Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London, W.C.2.*

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## Professional Notes

### The Parliamentary Programme

THE NEW CONSERVATIVE Government, secure in its majority of sixty from the General Election, promises a fourteen-month Parliamentary session of consolidation rather than excitement, of solid and steady administration rather than fireworks. The Queen's Speech announced a number of Bills and inquiries, all of them sober-sounding and mostly in the ordinary run of everyday business. The first Bill to be introduced in the new Parliament was one, held over from the old, to clear the way for the new rating valuations. The fear that these valuations would cause business to pay much more in local rates has been somewhat allayed by the Government's promise that any serious shift in liability from one class of ratepayers to another will be reconsidered. The Government has given its blessing on co-partnership

schemes as a further step towards the "property-owning democracy", but the fiscal encouragement which Mr. Butler has in mind for these schemes is not yet divulged.

Among the new Bills to come forward is one "to deal with abuses in the field of monopolies and restrictive practices." This could be the major piece of legislation of the whole Session, assuming, as is probable, that the Bill to rearrange the local authorities of England and Wales does not reach the stage of being introduced this Session. If there were a real anti-monopoly drive, great economic advantage could accrue—and, incidentally, the Government would have run off with at least some of the outer clothing of the Opposition.

There will be a Bill to permit the imposition of countervailing duties (that is to say, duties on imported goods which have been subsidised by foreign countries)

and anti-dumping duties: we are permitted to impose these duties by international agreements but not, at present, by the law of the country. Another Bill will be against air pollution and another will extend legal aid to proceedings in county courts in England and Wales. Further Bills will make changes in the law relating to recorders and stipendiary magistrates, and in the law of copyright. An inquiry will be held into the practice and procedure of administrative tribunals and quasi-judicial inquiries, including those concerning land. Another inquiry will be into the equalisation grant to local authorities in Scotland.

The Queen's Speech put full employment and expanding output, to be ensured through the "co-operation of employers and workers," at the head of the Government's *desiderata*. This seemed somewhat ironical, since the Speech was delivered in the middle of the rail and dock strikes. But the mention of the modernisation of the railways, of a continued high rate of house building, of the rapid decrease of slums, of an extended programme for education, of the development of nuclear energy for peaceful purposes, of "the utmost economy in public expenditure" and the "sound handling of financial affairs to check the dangers of inflation," all suggested that the Government regards the key-note of the first Session of the new Parliament as being progressive management of State affairs with responsible stewardship, rather than ambitious law-making.

#### Searchlight on Company Profits

IN BRITISH INDUSTRIES which were prosperous before the war net profit margins of companies, after maintaining both fixed assets and inventories intact in physical terms, are now little higher, if they are at all higher, than they were then. Industries which were depressed before the war have shown marked increases in profit margins. But of the net profits of all companies the Government now takes far more than it did before the war, for the proportion going in tax rose from 30 per cent. in 1938 to a peak of 69 per cent. in 1951, when

the excess of taxable profits over profits after maintaining physical capital ("true" profits) was unusually large owing to the inflated cost of maintaining inventories. Since 1951, the proportion has fallen to about 54 per cent., mainly because of the check to the rise in inventory prices.

These are some of the salient conclusions of an article "Company Profits and their Distribution since the War" contributed by Professor F. W. Paish to the *District Bank Review* for June, 1955.

The increase in the Government's share of true profits was not at the expense of company savings, for these expanded from 22 per cent. in 1938 to 29 per cent. in 1954. It was entirely at the expense of the shareholders, whose net dividends fell from 47 per cent. of profits in 1938 to 16 per cent. in 1954. The purchasing power of Ordinary dividends last year was 75 per cent. of the 1938 level on a gross basis and less than 60 per cent. of that level after tax.

Professor Paish finds that in most post-war years the Inland Revenue annual wear and tear allowances on original costs have been more than 70 per cent. of what they would have been if calculated on replacement costs. The addition of initial and investment allowances has brought total allowances very nearly into line with replacement costs. The use of original costs for wear and tear allowances has been a much less serious cause of over-taxation through over-assessment of taxable profits than the inclusion in profits of the rise in the value of inventories due entirely to price changes. The fall during the last three years in the proportion of profit taken in tax, a fall which resulted from relatively stable prices of materials, has been the main reason for the easier finances of most companies.

Failing an accelerated rise in inventory prices, which would cause effective rates of tax on true profits to increase, the article (which contains much new statistical material, some of it provided by the Central Statistical Office) concludes that appropriations to reserve have recently been on such a generous scale that a

further rise in the share of net Ordinary dividends to say, 15 per cent. of profits does not seem unreasonable. Given also expanding production, in a propitious political climate Ordinary shareholders might receive in all an increase before tax of 20 per cent. or so in real terms over the next few years. But such an increase would leave their gross dividends below what they were in 1938 in terms of purchasing power and, even taking account of any possible decline in tax rates, their net dividends would show up still worse on that comparison.

#### Birthday Honours

WE HAVE PLEASURE in congratulating several members of the Society of Incorporated Accountants whose names appear in the Queen's Birthday Honours List.

Mr. V. W. Grosvenor, LL.B., F.S.A.A., J.P., becomes a Commander of the Order of the British Empire, in recognition of his services as Chairman of the Birmingham Regional Hospital Board. The honour of C.B.E. is conferred also on two oversea members: Mr. J. A. L. Gunn, F.S.A.A., for services in the field of taxation in Australia, and Mr. V. H. Merttens, B.A., A.S.A.A., Commissioner of Income Tax, East Africa High Commission, and Commissioner of Inland Revenue, Kenya.

Mr. L. W. Ambrose, A.S.A.A., Chief Accountant to the Board of Trade, and Mr. Thomas Proudlove, A.S.A.A., Assistant Accountant and Comptroller General, Board of Inland Revenue, become Officers of the Order of the British Empire, and Mr. J. C. Boyle, A.S.A.A., Basingstoke, is awarded the same honour for political services. Mr. R. W. H. Biss, A.S.A.A., Borough Treasurer of Wood Green, London, N.22, receives the M.B.E. for his services as Honorary Secretary of Wood Green Savings Committee.

Members of the accountancy profession will have learned with pleasure of the knighthood so fittingly conferred on Mr. J. Millard Tucker, Vice-Chairman of the Royal Commission on the Taxation of Profits and Income and chairman of the

committees on taxation of trading profits and on the taxation treatment of provision for retirement.

Other members of the accountancy profession who have been honoured include Mr. R. P. Errington, A.C.A., Chairman of the Aden Port Trust, who becomes a Commander of the Order of St. Michael and St. George. In the Order of the British Empire, new Commanders are Mr. J. A. Dyson, F.C.A., Director of Costings in the Ministry of Agriculture, Fisheries and Food; Mr. Alexander Harrison, C.A., lately chairman of the Edinburgh Savings Bank; Mr. K. I. Morgan, O.B.E., F.C.A., J.P., for political and public services in Swansea; Lt.-Col. H. C. R. Thompson, T.D., D.L., F.C.A., Chairman of the County of Monmouth Territorial and Auxiliary Forces Association; and Mr. J. N. Toothill, F.C.W.A., General Manager, Ferranti Ltd., Edinburgh. The O.B.E. is conferred on Mr. E. W. Cooper, F.C.A., a British subject resident in Egypt, and Mr. W. H. Oatley, A.C.A., Secretary and Treasurer of the Church of England Pensions Board. The M.B.E. is awarded to Mr. George Keddie, C.A., Senior Accountant in the Ministry of Agriculture, Fisheries and Food.

#### New Members of the Society's Council

AS RECORDED ON page 230 of our June issue, Mr. Albert Blackburn, F.S.A.A., Newport, Mon., and Mr. Harold Leslie Layton, M.S.M., F.C.A., F.S.A.A., London, were elected at the annual general meeting of the Society of Incorporated Accountants as members of the Council of the Society. We have pleasure in congratulating them both. Photographs are on page 279 of this issue.

Mr. A. Blackburn spent the early years of his professional career with Messrs. Walter Hunter, Bartlett, Thomas & Co., Incorporated Accountants, at Newport, Mon. He qualified as an Incorporated Accountant in 1931, and three years later joined the *Whitehead Iron and Steel Co., Ltd.* He became Chief Accountant to the company in 1938, and is now a director and the secretary of the *Whitehead Iron and Steel Co., Ltd.*, *Whitehead, Hill & Co. Ltd.*,

*W. A. Baker & Co. Ltd.*, and *Godins "The Rollers of Steel Sections" Ltd.* Mr. Blackburn is a member of the Iron and Steel Institute and a member of the Taxation Committee of the British Iron and Steel Federation. He is keenly interested in education, and is a governor of Newport High School.

Mr. H. L. Layton became a member of the Society in 1925 and of the Institute of Chartered Accountants in England and Wales in 1938, taking honours in the Intermediate and Final Examinations of both bodies. He has been a partner since 1938 in Messrs. Turquand, Youngs & Co. Mr. Layton is a member of the Committee of the Incorporated Accountants' London and District Society and is well known as a lecturer. He is chairman of the Gold Coast Chamber of Mines Taxation Committee, financial adviser to a gold mining group of companies, and a director of *Seven-Up (Great Britain) Ltd.* During his service in World War I he was awarded the Meritorious Service Medal while under twenty-one years of age. He is a freeman of the City of London and a liveryman of the Fanmakers' Company.

#### New President of the Institute

WE CONGRATULATE Mr. W. S. Carrington, F.C.A., who has been elected President of the Institute of Chartered Accountants in England and Wales. Mr. Carrington is a partner in Messrs. Whinney, Smith & Whinney. He became a member of the Institute in 1926, and in 1942, immediately after his election to the Council, he took part in the formation of the Taxation and Research Committee and was a member of the committee for some years. He has also served on many other Institute Committees.

Mr. Carrington was a member of the Royal Commission on Taxation, and of the committees on the taxation of trading profits and on the taxation treatment of provisions for retirement. He is a member of the panel of referees under the Coal Nationalisation Act, 1946. He became Vice-President of the Institute last year, when Mr. D. V. House, F.C.A., was elected President.

We regret that by inadvertence it was erroneously stated in our last issue that Mr. House and Mr. Carrington had been re-elected President and Vice-President respectively.

The new Vice-President is Mr. A. S. H. Dicker, M.B.E., F.C.A., a partner in Messrs. Lovewell Blake & Co., of Norwich, Great Yarmouth and Lowestoft.

#### Accountants in the New Parliament

WE HAVE PLEASURE in congratulating five members of the accountancy profession who were elected to the House of Commons in the recent general election.

Three were members of the last Parliament. Sir Roland Jennings, F.C.A., has been re-elected as Conservative and Liberal member for the Hallam Division of Sheffield; Mr. Ernest Marples, A.S.A.A., Parliamentary Secretary to the Ministry of Pensions and National Insurance, as Conservative member for Wallasey; and Mr. G. P. Stevens, F.C.A., as Conservative member for the Langstone Division of Portsmouth.

In addition, Mr. F. J. Allaun, B.COM., A.C.A., is the new Labour member for Salford East, and Mr. J. M. Howard, F.C.A., represents the Test Division of Southampton as a Conservative.

#### Reports on Accounts of Sole Traders and Partnerships

THE COUNCIL OF the Institute of Chartered Accountants in England and Wales has issued a statement on the form of reports prepared by its members on the accounts of sole traders and partnerships, who are not subject to statutory requirements. The statement, which has been distributed to all members of the Institute and while supplies last is available to other interested persons on application to its offices, emphasises that all who see the accounts—the client, the Inland Revenue and other third parties—should be aware of the nature of the responsibility which the accountant has undertaken towards his client.

The accountant should, says the Institute, clearly indicate, by a state-

ment on the accounts or by a reference on them to a separate report to the client, the significance of his association with the accounts. If he is the auditor he should state that he has audited the accounts and should also state whether in his opinion they present a true and fair view, subject to any reservations he may consider necessary. Usually he will not be acting as auditor, though he may do some auditing in preparing the accounts. He should then "state that he has prepared the accounts and should then make such observations as will ensure that the association of his name with the accounts does not imply that they can be regarded as more reliable than the circumstances warrant."

Three examples are given to show how the general principle quoted can be applied:

(a) If the member is able to do so, having carried out sufficient auditing work to his satisfaction, he could state that he has prepared the accounts and in his opinion they present a true and fair view, subject to any reservations he may make. Such an opinion should not be expressed if the reservations are so extensive as to vitiate the opinion.

(b) If the client's instructions involve the omission of work which the member would need to do in order to form an opinion as to whether the accounts show a true and fair view but the records are *prima facie* satisfactory, he could appropriately state that he has prepared the accounts from the records and other information supplied by the proprietor but without verification thereof (or without verification of specified matters).

(c) If however the records are materially inadequate or otherwise unsatisfactory the member should state that he has prepared the accounts from records and other information supplied by the proprietor and should then specify the matters in respect of which he has been unable to satisfy himself, making clear the significance thereof on the reliability of the accounts.

We believe that if a properly qualified member of the accountancy profession who prepares the accounts of a sole trader or partnership has been dissatisfied with the records made available and the information and explanations given to him, he does usually give a clear warning to anybody examining the accounts.

Such a warning would be given, not by way of indirect criticism of the accounting system, implied simply by a brief report or omission of words of approval, but by direct reference to the unsatisfactory procedures. If a report has not been qualified, though by the standards applied by some it should have been qualified, the reason will often be found in a genuine difficulty that has been experienced in deciding what warrants a qualification. When reference was made in the Companies Act of 1948 to "proper books of account," numerous voices were raised seeking a definition of the term. That was a matter of an undefined expression in a Statute. Where, as here, one is concerned, not with a responsibility which is laid down by the legislation (even though it is laid down with an occasional failure to be precise or explicit) but with a responsibility which is quite unregulated by Statute, there may well be greater uncertainty, and this uncertainty remains. Thus a doubt may perhaps be permitted about the case with which the recommendations of the Institute, which are an admirable expression of intent, can be applied in the quarters where what we may call the "offenders" lurk—seeing that, firstly, these offenders are probably relatively few and, secondly, the majority of the few, being sincerely at variance on what merits a qualification in their report, will remain unrepentant. There is also the danger that the minority of the few, who are deliberately applying standards of accounting principles and practice lower than the highest may gain the impression that a qualified report may in future be an additional safeguard to themselves against an action for negligence.

#### Improving Company Accounts

THE ANNUAL AWARDS for company reports and accounts made by *The Accountant* were presented at a ceremony held on June 7 at the Mansion House, London. The Rt. Hon. the Lord Mayor of London, Sir Seymour Howard, presented the awards to Sir Rowland Smith, chairman of the *Ford Motor Co. Ltd.*, and to Mr. F. J. Tempel, vice-chairman

of *Unilever, Ltd.* Mr. Ronald Staples, Editor-in-Chief of *The Accountant*, presided, and there was a large number of distinguished guests.

Mr. Staples said that they had evidence that the annual awards were turning the thoughts of many Boards to the important duty of providing reports and accounts telling the full story of the activities of their concerns and understandable not only by accountants and stockbrokers, but by the man in the street who provided the money and by the employees of the company.

They had never been so foolish as to hope that their panel of judges would find perfection. There could be no definition of "adequate information," which must vary with the circumstances of the various companies.

Mr. Staples believed that shareholders received the reports and accounts they deserved. If they took an intelligent interest in the business they could encourage the directors to make reports which meant something to them. He felt strongly that the shareholders of most public companies could reasonably expect to have reports and accounts at least twice a year and announcements of turnover figures even more frequently.

Mr. Montagu Gedge, Q.C., the chairman of the panel of judges (of which Mr. Bertram Nelson, F.S.A.A., J.P., is a member) said that they applied no formula. They tried to find accounts which showed a steady advance in accountancy technique and furthered the approach which modern thought demanded. The panel were considering proposals that one of the two awards should in future be specially for the "smaller company."

#### The First English Text on Book-keeping

THE ORIGINAL OF what is thought to be the earliest book in English on book-keeping has recently been traced in Russia. The book, published in 1547, six years before the first known book on the subject by an English author, James Peele, was the English translation of a book which first appeared in 1543 in Dutch, the

work of Jehan Ympyn Christoffells. Ympyn said that his book was itself a translation, of a book in Italian by Giovanni di Bianchi, but no copy of the Italian work is known. The English version was made from a French translation of the Dutch.

The English book was found in 1893 in Reval, Estonia, but was lost in 1917 after having been removed to Nijni Novgorod. Some manuscript copies of it had, however, been made in 1910 and from these the text was reprinted in Holland in 1934.

The book has been traced through the efforts of Mr. R. R. Coomber, F.C.A., F.S.A.A., a member of the Incorporated Accountants' Research Committee. Enquiries made by him some ten years ago were fruitless, but he renewed them last year through the British Embassy in Moscow, and recently received, by courtesy of the Soviet Library, a microfilm of the book. This has been placed in the British Museum, where it may be inspected.

A note by Mr. Coomber on the book and reproductions from it are, we understand, to appear in the July issue of *Accounting Research*.

#### Replacement Costs in Price Fixing

IN FIXING MAXIMUM prices for iron and steel products in the home market (except for castings and forgings, which are not price-controlled) the Iron and Steel Board had to allow in costs for the depreciation and obsolescence of fixed assets. The Board, says its first report, did not take the amounts actually allowed by the iron and steel producers themselves in their books, but aimed at figures which would ensure "that the efficiency of the industry—and therefore in the ultimate the continuity of its operations—should be maintained." Therefore the Board estimated the effective life of the fixed assets, having in mind not only normal wear and tear but also obsolescence through improvements. It then calculated allowances based upon the writing-off over that effective life of the current replacement costs of the assets in question, after taking into account some other factors such as the average expired life of the assets, the accumulative effect of the allowances

and the fact that replacement on the same site might result in certain economies.

It was made clear by the Board that it would expect producers in future to set aside for depreciation and obsolescence amounts not less than the allowances so made in prices.

The Board fixed the margin for profit as a proportion of estimated capital employed. In making the estimates of capital employed, fixed assets were valued, not at replacement cost, but at the original cost written-down by Inland Revenue rates of depreciation. The Board decided, it states, that this was the most reasonable method of valuation for the particular purpose of arriving at profit margins. It does not, however, enlarge upon this bald statement by giving any reasons for its decision. Nor does it say how stocks have been valued as a constituent of capital employed.

A rather conspicuous omission in the report is that no figures are given of the profit margins allowed, it being merely stated that the return on capital employed was fixed for each type of product at a rate which "had regard *inter alia* to the nature of the industry, current interest rates and what might be expected to be a normal level of working in relation to capacity over an extended period of time."

#### The Public Trustee Office

WE PUBLISHED LAST month (page 203) a submission by the Society of Incorporated Accountants to the Committee of Inquiry into the Public Trustee Office. A paragraph of the letter of submission referred to the increase effected in 1948 in the Public Trustee's withdrawal fees and the last sentence of this paragraph stated that the increase applied to trusts already accepted as well as to new trusts, "irrespective of any special arrangement which may have been made."

It is regretted that this sentence of the letter gave the wrong impression. The sentence should have read: "Such an increase applies to trusts already accepted as well as new trusts, but without prejudice to any special arrangement which may have

been made." Under paragraph 3 of the Public Trustee (Fees) Order, 1953, "where the Public Trustee has entered into any special arrangement or undertaking concerning the fees to be charged by him in respect of a particular trust or estate (being an arrangement or undertaking in force at the date on which this Order comes into operation), this Order shall take effect without prejudice to such arrangement or undertaking." A similar provision is contained in paragraph 15 of the 1948 Fees Order.

#### Absence from Work

AN INVESTIGATION INTO the incidence, cost and control of absence from work was begun by the British Institute of Management in 1953. The first step in the inquiry was a pilot survey to test methods of recording and analysing absences. The completion of this stage of the work is now marked by the publication of a booklet, *Absence from Work—Recording and Analysis*.

The booklet makes suggestions on keeping monthly records of absence, which is defined as lost time of over one hour's duration: the investigation is therefore not concerned with lateness. A standard system of recording is described in detail. Employers willing to collaborate in a nation-wide survey of absence statistics are asked to complete the form provided.

The booklet is obtainable from the British Institute of Management, P.O. Box No. 483, Management House, 8 Hill Street, London, W.1, price 2s. 6d., post free.

#### Australian Fellowship in Retail Business Accounting

THE BRITISH MEMORIAL FUND, established by public subscription in Victoria, Australia, offers a Fellowship in retail business accounting and administration. The Fellowship is of the value of £1,000 (Australian) to provide ten months' study in Victoria, including travelling and living expenses. The Fellowship is described as a gesture of loyalty, gratitude and affection to the British people in recognition of their role in World War II.

It is stated that the Fund will

arrange accommodation for the successful candidate, and that wives and children will be welcome but no extra payment can be made in respect of their expenses. Applicants must be men or women of British stock, not over 35, and must have lived in the United Kingdom for at least ten years. They must be members or students of accounting bodies or be otherwise qualified in the terms of the advertisement published on page xx of this issue.

Full details are obtainable from the Honourable Sir John Lienhop, Agent-General for Victoria and Chairman of the British Memorial Fund, London Selection Committee, Victoria House, Melbourne Place, London, W.C.2. The closing date for applications is August 5, 1955.

#### Accounting Ratios

RATIOS TO MEASURE business performance have not found here the widespread acceptance accorded to them in the United States. True, many businesses measure overheads as a percentage of direct labour, compute the ratio between stocks and sales, and express profits as a percentage of assets employed. Some concerns use other accounting ratios of their own devising but generally speaking British industry, in contrast to American industry, uses ratios sparingly.

A number of booklets now appearing in this country are devoted to the "operating ratios" of various industries in the United States, particularly in relation to capital requirements. We have already discussed in ACCOUNTANCY (April, 1954, pages 123-4 and February, 1955, pages 44-5) two of these booklets, which are prepared by the University of Philadelphia for the U.S. Bureau of Labour Statistics and distributed here by the British Institute of Management. One now received (*Capital Requirements and Operating Ratios in the Agricultural Machinery Industry, 1950 and 1951*, price 5s. net) attempts, like others in the series, to explore the "significant differences" of groups of producers in the industry, by way of elementary ratios. A distinction is made between big and little firms, between more and

less profitable firms, and between specialist firms and those with a wider product range. The ratios used are:—

Assets (distinguishing between current and fixed assets) to sales; nominal capital, retained profits, long-term credit, and short-term credit to total capital; cost of sales (distinguishing between selling and other costs) to sales; profit (distinguishing between profit before and after tax) to sales; profit (similarly distinguishing) to the equity; tax, dividend and retained profit to total profit.

The impression which will probably remain with many British accountant-readers of this booklet and of its fellows in the series is that so many interpretative qualifications have to be borne in mind in using the ratios and so many explanations of the behaviour of the ratios can be adduced, that they should be employed as a basis for further detailed inquiry rather than for direct comparison between concerns and for the immediate formulation of policy. Differences in the fixed assets to sales ratio, for instance, might be due to differences in degree of fabrication, type of product, method of production, method of distribution, shifts worked, amount of idle equipment, renting or owning of assets and many other factors.

If it is feasible to make a detailed analysis of differences thrown up by a comparison and study of ratios, then this analysis may be useful as a basis for determining policy. A fruitful technique, for example, is to design a plan of operation under specified economic conditions, whereby one arrives at a return on assets acceptable as a target, and to present a periodical analysis of variations from that target so that the areas of activity where profit or assets performance has fallen short of or exceeded expectations can be defined and the causes of the differences identified. But it is no more than a call to further inquiry if one merely ascertains that one's return on assets is lower or higher than that of competitors.

#### A Sceptical View on Depreciation

WHAT DOES "DEPRECIATION" MEAN TO

the accountant when he uses the word? In a recent seminar arranged by the Stamp-Martin Professor of Accounting (Professor F. Sewell Bray) at Incorporated Accountants' Hall, Mr. Louis Goldberg of the University of Melbourne spoke to a company of students and others on the topic *Some Queries about Depreciation*. He pleaded that when the term "depreciation" was used, one should be careful about its precise connotation. The term was used in at least four senses in accounting and business literature—as a fall in price, as physical deterioration, as a fall in value and as an allocation of cost.

Mr. Goldberg discussed these four concepts at length. On the last of them, he quoted a bulletin of the Committee on Accounting Procedure of the American Institute of Accountants, which said that depreciation accounting was "a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner." But what was meant by a systematic, and what by a rational, manner of distributing the cost of assets? He continued:

In the days when 20 per cent. initial depreciation was allowed for tax purposes, there were few, if any, who argued that it was either unsystematic or irrational to allocate 20 per cent. of the cost of an asset in the first year after its acquisition and the remainder over its estimated life. And if it is rational to allocate 20 per cent., would it not be equally rational to allocate 40 per cent., or 80 per cent., or even 100 per cent? After all, the difference . . . is one of degree, which surely cannot be said to affect rationality. Or, if 100 per cent. or 80 per cent. is not rational, at what stage does the difference between reasonableness and unreasonableness occur? There is no guide to this in the bulletin.

We may perhaps add the comment that some economists, among whom Mr. Roy Harrod is the most prominent, are nowadays arguing that it would be reasonable for the Inland Revenue to allow businesses to

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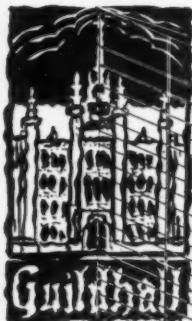
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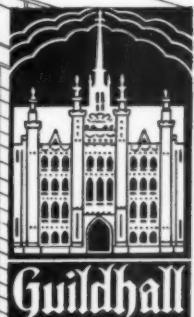
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write-off their fixed assets as rapidly as they please, even the whole of the cost in the first year.

Mr. Goldberg continued by asking how much was known about what occurred to a given piece of equipment or property during any given period. The known facts were few:

Between the points of acquisition and retirement there is, in respect of non-physical assets (such as a lease), nothing more; in respect of physical equipment there is usually a history of use (either regular or sporadic), maintenance (possibly regular but often irregular), and repair (almost always variable). So far as I know, there are relatively very few instances where adequate records of this kind of history are kept.

Other unresolved problems of cost allocation were discussed. Units of activity other than that of a period could be used—for a motor vehicle, the number of miles travelled and for equipment, units of output. Such bases, however rational, were arbitrary and therefore did not correspond to "objectively verifiable occurrences." Again, the assessment of the residual return on disposal of an asset was doubly based on estimate: the effective life of the asset and the movement of second-hand prices were both estimated. Would it not be equally reasonable, and perhaps more systematic, to take the residual return either as a windfall gain on realisation or as a set-off against the cost of any asset acquired in replacement?

Mr. Goldberg based his remarks at the seminar on a research paper which he delivered at Canberra University College last year. There will be a further opportunity of studying his thinking on this subject for the paper is, we understand, to be published in a forthcoming issue of the American journal *The Accounting Review*.

#### Work Study

IN 1953, *Imperial Chemical Industries* estimated that they had made gross savings up to that date of £4.7 million from work measurement and the application of incentives. Against this sum there had to be set £2.6 million, the cost of administration and payment for incentives, but the

net savings were still £2.1 million, and savings from better methods and work study introduced while projects were in the design stage had been excluded. The staff now employed by the company on work study is now 1,056 and is still increasing. Head of the central work study department of the company is Mr. R. M. Currie, who in a recent paper described methods of measuring and recording the effectiveness of labour in relation to cost. The paper was read at the National Cost Conference of the Institute of Cost and Works Accountants last month.

The basic technique of time study, said Mr. Currie, had the limitation that it was economic only when applied to defined work which would be repeated on a great number of occasions. But many jobs contained repetitive elements, and times could be built up by time studies and where necessary by estimating. The standard performance could then be converted to work units, the operator being credited with the work unit value of each job performed by him. A normal performance of 60 work units per hour would be expected in return for the basic job wage.

The daily work record for each individual is normally completed by the operator, detailing work done and time taken. Time spent on unmeasured work and waiting time must be separately recorded, and credits for these are added to the total work units, which are inserted by the control office. A posting sheet, showing each operator's performance and bonus earned, can be posted in the work place each morning.

Departmental management is provided with a daily analysis sheet showing units of production and waiting time, suitably analysed to show causes. The figures are converted to money for information of higher management, and a standard payroll is worked out and compared with the actual payroll. Excess cost is then analysed.

The records, affirmed Mr. Currie, are easily understood by all and provide an incentive to improvement. The causes and extent of losses and savings are shown. Forecasts and

planning are facilitated by accurate work study data. The extra clerical work is much less than is generally expected, and is economical.

## Shorter Notes

**Cost and Works Accountants' President**  
At the recent annual general meeting of the Institute of Cost and Works Accountants, Mr. George Nicholson, F.C.W.A., was installed as President, and Mr. Ian T. Morrow, C.A., F.C.W.A., and Mr. Henry J. Furness, F.C.W.A., as Vice-Presidents. Mr. Nicholson is secretary of *Blythe Colour Works Ltd.*, Stoke-on-Trent.

**The Institute of Municipal Treasurers and Accountants**  
The seventieth annual general meeting and conference of the Institute of Municipal Treasurers and Accountants were held at Folkestone from June 15-17. Mr. T. R. Johnson, F.S.A.A., F.I.M.T.A., City Treasurer of Bristol, was invested as President. Mr. E. Sinnott, F.S.A.A., F.I.M.T.A., Chief Accountant to the South Eastern Electricity Board, is the new Vice-President. The Chancellor of the Exchequer gave an address.

**Sample Census of Distribution**  
The Board of Trade has appointed the Statutory Advisory Committee on the preparation of instructions and forms, and the making of any Order, for the sample census of distribution and other services which is to be taken in 1957 in respect of the year 1956. The Chairman is Mr. J. Stafford, C.B., of the Board of Trade, and the committee includes a member of the Society of Incorporated Accountants, Mr. J. W. Margetts, A.C.A., A.S.A.A.

**National Insurance—Exemption of Small Incomes**  
The income limit for the exemption of self-employed and non-employed from National Insurance contributions has been raised from £104 a year to £156 a year from June 6, 1955.

**Unstamped Receipts**  
Judge Clothier refused to give judgment in a case at Lambeth County Court until stamp duty had been paid on a receipt produced in evidence. "I cannot countenance this tax evasion," he said. "I expect the Inland Revenue will extract a penalty of £3 or £4."

## EDITORIAL

### Anatomy and Pathology of Taxes

IT will be quite some time before Command Paper 9474 leaves the accountant's desk for his bookshelf. The Queen's Commissioners worked four and a half years to produce this 500-page treatise. Its exhaustive survey of our system of taxing profits and income, and its intricate plans for re-casting the system, demand a meticulous study by all who, like most of those in the accountancy profession, have their livelihood and their intellectual interests bound up with taxation.

The Commission, after some involved reasoning, concludes that a company must be treated as a taxable subject of a kind different from individuals. In determining how corporate income should be taxed, there are no guiding principles of a fiscal nature which would point to any particular relationship between the burden of corporate taxes and the burden of personal taxes as being the right relationship. Instead, then, of being a matter of fiscal equity the decision at what rate corporate incomes should be taxed is a matter of economic objectives and of Budgetary expediency. The Commission does not disagree that the logical contention of this line of argument—as is pointed out in a reservation by two members—would be that there should be a “single-tier” tax, not a two-tier tax, on companies, that is to say, they should pay one tax, a corporation tax, instead of income tax (at so many shillings in the pound) and profits tax (as a percentage). But regarding it as wrong in principle that the shareholder should be taxed on a dividend from a company, by way of deduction at source, without recognition that the profits of the company had already attracted corporation tax—for this would be double taxation—it is considered that credit would have to be given to the shareholder for the corporation tax. Yet to give him this credit, it is shown, would be administratively burdensome. Therefore, a single-tier corporation tax is rejected by the majority.

The Commission then reaches the further conclusion that the profits tax on companies should be based upon total profits without the present differential between undistributed and distributed profits. For economic reasons—the averting of inflation—the tax code should not “even give the appearance of discouraging a liberal reservation of company profits,” so that undistributed profits should not be taxed more harshly than distributed. But in equity the retained portion of profits should be taxed rather than the unretained, for profits that are distributed are again taxed in the hands of shareholders. The Commission, in effect, balances these two considerations against each other, adds for good measure the convenience of a uniform rate of profits tax—and settles for uniformity. The uniform rate would be “a good deal nearer to the lower present rate of 2½ per cent. than to the higher rate of 22½ per cent.”

In its argument on historical and replacement costs,

the Commission denies that the same principles must be applied to stocks as to fixed assets. It reaches the eminently reasonable conclusion that there is no one correct method of treating stocks in striking the figure of profits for the accounting period: it refutes, in particular, the claim of the Inland Revenue that the FIFO basis is universally the right method. If a method is not arbitrary or fictitious in determining the cost of stock and is used consistently, if it is calculated over a period of years to give a fair reflection of the profits of this year—a detailed scheme incorporating these criteria is laid down—then it should be accepted for tax computations. For fixed assets, however, the Commission adheres firmly to the historical costs basis of depreciation accounting. It distinguishes the treatment of stocks from the treatment of fixed assets, not very convincingly, and further clinches the argument against depreciation accounting on replacement costs by making the whole of its report subject to the large assumption that there is no change in the value of money. A report that is generally signalled by realism—it pays great attention, at all points, to what is administratively practicable and what is not—here seems to go astray.

The majority report is decisively against the taxation of capital gains. It has three chief reasons. To administer the tax would be a heavy task. The yield is not likely to be large. The tax would militate against saving. These reasons are weighty and many students of the report will accept them as conclusive without taking the trouble to read what the minority has to say on the principles and prospects of bringing capital gains within the tax orbit. It would be wrong, however, not to regard the minority report on this subject as very important. The yield of the tax is here put at a figure high enough to justify administrative inconvenience. The view is taken that over time economic progress brings an accretion of capital values which permits heavy spending supplemental to other spending, and in equating “spending capacity” with “taxable capacity” the minority puts forward a thesis of which much will certainly be heard in future debates on taxation. It is also not to be overlooked that the minority offers, as a *quid pro quo*, a greater reduction in company taxation than the majority can offer.

We have taken three large issues from the report and have found some cause for criticism on all of them. But the Commission has done a large job in the large manner which embraces principles while devoting unlimited pains to details. There are dozens of other issues, some of them not much smaller than those we have discussed and most of them suggesting welcome improvements in the tax system—improvements which will provide the stuff of discussion, in this journal and elsewhere, as well as the content of legislation, for a long time to come.

# From Shop-Floor to Manager's Desk\*

By F. CLIVE de PAULA, T.D., A.C.A., F.C.W.A.

MANAGEMENT ACCOUNTING AIMS at measuring in terms of £ s. d. what has been going on in the business; it must therefore be founded on detailed information obtained from the factory. Just what information is needed and what records must be kept in the factory?

Any review must attempt to be comprehensive, but it is to be emphasised that any one business would require only some of the records mentioned, according to its method of factory operation and accounting. Broadly speaking, it must be known what goes in and what comes out of the factory. Going into the factory is the raw material to which the factory applies its productive skill in order to convert raw material into finished product. It is this productive skill of men and machines that the factory is selling; selling it attached to the raw material to which it has been applied; selling it as the artist sells his creative skill attached to the paint and canvas of his picture.

In addition, then, to the raw material going into the pool of work-in-progress in the factory, there is also the work being done by men and machines. Work—or productive effort of men or machines—is normally and most easily measured in terms of time. We therefore have two main elements flowing in, through, and out of the factory, raw material (and finished components bought outside) and productive hours. Nearly all the recording effort needed to produce accurate and informative accounts for management purposes centres round the problem of tracking down the usages and losses of time and materials.

## Raw Materials

Let us first consider raw materials. In the first place we have normal records of what is received (that is, quantities and values); returns to suppliers (not up to specification); evaporation and similar losses in storage; losses on breaking bulk; and issues to production and returns from production. These basic stock records provide data of the quantities received and what has been issued to production. (Problems of value and the calculation of purchase price variances are omitted from this paper.)

## Quality

The question of quality does, however, arise in some industries. The quality of the raw materials may affect subsequent operations, or extraneous matter in the raw materials may be significant, for example, the moisture content of coal, coke, wool, or grains; ash in coke; weed seeds and dressing in grains. Records may then be needed of laboratory tests of incoming material showing

the degree of impurity, either to measure quantity and value of water (or impurity) purchased, and/or to establish control of what can reasonably be expected in the way of good production from the quality of raw material received.

## Quantity of Output

Having measured the quantity of raw material going into production, the quantity of good production emerging must also be measured; or, alternatively, having regard to the actual final output of end-products, it must be calculated whether the quantity of raw material used was reasonable. That is, having recorded actual input of raw material, actual output of end-products must also be recorded and then from actual output a calculation must be made of what raw material should have been used, comparing actual raw material usage with "standard" usage.

To cut down factory records it is sometimes possible to issue a standard quantity of material for a given quantity of end-products. It will then be necessary to keep only a record of actual output of end-products *plus* a record of all excess material issued, over and above the "standard" issue, to replace material damaged in course of production. For all special issues represent excess usage.

However, control is only complete if a close check is maintained to see that all production is complete up to full standard quantity. Otherwise it may be concealed that output, which has been spoiled in production, has not emerged as good production, and has not been replaced by drawing extra material.

## Different Type of Material

Another problem occurs where the right quantity of material may have been used but the material issued was different from that specified and of different value. In this case records will then be needed to keep track of "non-standard" issues and to measure the resulting financial gain or loss.

## Change of Unit of Measurement

Recording of raw material can become complex when the unit of measurement changes in the course of production.

Material may be purchased by weight and then be converted into lineal length, for example, pounds of wool that are spun into yards of fibre and then converted into square yards of cloth; or paper bought in rolls by the ton and converted to sheets of a given length and width and then sold by count (in reams); or grain purchased by cubic measure (bushel) and sold by weight (cwt. or lb.). In all such cases a careful record must be maintained at the point where conversion from one unit of measurement to the other takes place, otherwise unrecorded and unaccounted for losses on conversion may occur.

\*Based on a lecture *The Link Between Shop-Floor Records and Management Accounts* given to a joint meeting of the Chartered and Incorporated Accountants' District Societies in Sheffield on November 9, 1954.

### Tracing Losses

In effect the kernel of the whole problem is keeping track of losses that take place. For work-in-progress account will have been debited with the actual value of the raw material going into production and in due course that account will be credited with the raw material content of the actual output emerging and being transferred from the factory to the finished goods warehouse. The difference between these debits and credits will stand as a balance, purporting to represent the current value of material in work-in-progress. If all forms of loss are not traced, recorded, valued and written off, the work-in-progress account will become more and more inflated with non-existent material.

So far as the raw material is concerned, production losses can be tracked down and written-off by writing-off the difference between the actual raw material put into production and the standard raw material content of the actual output of good end-products, but unfortunately when products are scrapped in the course of production, in addition to the raw material written-off there is also lost the work so far done on the product. In order to keep track of this lost work it is normally necessary to keep records of scrapped work. A scrap note is raised for all faulty production which is scrapped; the material and work content of each is valued and is written out of work-in-progress account.

### Productive Work

As was explained previously, care must be taken to see that unrecorded material losses do not build up a fictitious balance on the work-in-progress account. So, in the same way, care must be taken that all the productive work put into work-in-progress does in due course get taken out, either as the work content of finished products or as excesses, or losses, written off (as, for example, in scrap, mentioned above). In order to ensure this, various types of shop-floor record may be needed.

However, we must first consider the calculating of productive work added to the raw material and put into work-in-progress.

### Standard Hours Produced

Commonly this computation is made on the basis of records of actual good production at each stage of the manufacturing process. In the light of the standard time (of men or machines) which the product ought to take to pass through each process, the actual physical quantities of production are converted into the standard hours of productive work (of men or machines) which they represent. These standard hours are then put into work-in-progress. They should then ultimately get taken out of the work-in-progress account when the record of end-products transferred from the factory to the finished goods warehouse is evaluated at its normal work content.

### Standard Hours Scrapped

However, as was pointed out above, good work at an early stage of production may be scrapped at a later stage, so that scrap notes may be needed to calculate the amount of work time which has been put into work-in-

progress and must now be written off.

### Inefficiency

Sometimes the actual time worked by men or machines, that is, the time bought or paid for, is treated as the time to be debited to work-in-progress. When this is done, a comparison must be made between the actual clock hours worked and the standard hours of useful work produced. Any difference between the two represents an excess, or lack of efficiency, and must be written out of work-in-progress. The comparison is also used as a tool of management control.

### Unrecorded Losses

In practice, certain difficulties present themselves and, again, these revolve round the problem of keeping track of unrecorded losses.

Much of the difficulty arises from those very occasions when the recording problem appears to be easier, that is, when a form of bonus calculation, or piece work, for direct production workers is already in existence. Such bonus systems commonly calculate the work value of products made. Advantage is often taken of this, to save setting up additional records, by using the bonus calculation of standard hours produced as the basis for debiting work-in-progress account. The trouble is due to the fact that for perfectly valid reasons of bonus calculation there may be included in "standard hours produced" items which are not true standard hours and which may not therefore ever get taken out of work-in-progress again.

### Extra Allowances

For example, extra allowances (in terms of allowed times) may be given to a worker, to take account of some abnormal conditions which he has met, such as there being an unduly tough metal on a casting which he is machining. Careful record must be made of allowances to ensure that they are not mixed up with the true "standard hours produced." Likewise, if bonus hours are used as a basis for debiting work-in-progress, the records must be such as to ensure that in every case, without exception, the standard times used for the calculation of bonus are identical with the standard hours used for evaluating the work content of end-products which are transferred out of work-in-progress to finished stock.

### No Standard Times

Another problem concerns the proportion (large or small as the case may be) of work done, for which no standard times have been laid down. This type of work is normally done by men working on straight time rates of pay (with possibly a "lieu" bonus). In these circumstances the problem is that of keeping adequate records of the actual time taken on the job, so that the same time can be used to evaluate the credit to work-in-progress account when the job is finished.

A small problem sometimes met with is that similar work may be done by workers on piece work, or bonus time, and also by workers who are being paid straight time wages. Accurate recording is then needed to keep control, since there is an obvious incentive to one group and no disincentive to the other group for the time

workers to pass over their output to the piece workers. If they do so, outputs, efficiencies and earnings will obviously be distorted.

#### *Changes of Method or Machine*

A slightly different problem arises where operations are actually performed in the shop in a different section, on a different machine, or by a method different from that laid down. Accurate shop records are needed to keep track, because the work-in-progress account would normally be debited with the actual work value of the time taken by the section actually doing the job, whereas the amount taken out of work-in-progress will be the work value of the operation that should have been done in the section where it ought to have been carried out. Any difference must be calculated and written out of work-in-progress.

#### **Rectification Work**

Mention has already been made of the question of scrap. A somewhat similar question exists with rectification work.

Any work done on the product rectifying errors does not increase the value of the final good product: it adds nothing to work-in-progress. Sometimes the work has to be done in the worker's own time and he is not paid for it. Sometimes he is paid at time rates. In any event the records must keep track of what happens, to ensure that no time spent on rectification work gets into work-in-progress or, if it gets into work-in-progress, that it is written-off in due course.

#### *Lost or Idle Time*

Frequently, lost time or idle time also needs careful recording. If men are on piece work, or on a form of bonus payment related to standard hours produced, they are normally paid straight time wages when held up with no work to do. Clearly, if they can get booked on to "idle time", when in truth and in fact they are engaged on piece work or bonus work, bonus earnings will be artificially inflated and lost time will be overstated, so there is a double loss, or overpayment. Similarly, when men work partly on piece work and partly on day work or time rates, the recording must ensure that time on day work is not overstated.

#### **Finished Goods**

Once a product is complete, it goes from the factory to the finished goods warehouse. Proper stock records are required both to form a basis for transfer of quantity and/or value from work-in-progress to finished goods account, and to enable a record to be kept of quantities and/or value of items in the finished goods warehouse. This record requires also a proper recording of quantity and/or cost of goods taken out of finished goods warehouse and shipped out to customers. This recording also provides the data needed to calculate the cost of sales for the monthly profit and loss account.

#### **Separate Records for Different Departments**

So far, we have discussed these problems on the basis that

there is one account for work-in-progress and probably one account for finished goods. For this, the basic records that are needed are of:

- (a) Quantity and value of raw materials going out of raw material account into work-in-progress account.
- (b) Quantity and value of finished goods going out of work-in-progress account into finished goods account.
- (c) Quantity and value of finished goods going out of finished goods account to sale.

and in addition we normally require to record also:

- (d) Quantity of work completed at each individual process from which to calculate work value (or standard hours) produced (and put into work-in-progress).

In large industrial undertakings or complex plants it may be necessary to set up separate work-in-progress accounts (and also possibly finished goods accounts) for separate departments or budget centres. The principles remain the same, records being merely more detailed and complex.

Alternatively, it may be difficult or not considered necessary to keep detailed value records of transfer from raw material to work-in-progress and from work-in-progress to finished goods. Then, value accounts are kept in total for the whole factory covering everything within the factory walls from the goods inwards bay to the despatch bay. It is then common, however, to find this total value account sub-divided into raw material account, bought-out finished parts account and labour and overheads account. If this sub-division is made, records are needed of raw materials received, bought-out finished parts received and finished goods despatched, and from these records there can be calculated:

|                      |   |                                |
|----------------------|---|--------------------------------|
| Raw material         | } | Content of goods<br>despatched |
| Bought-out parts     |   |                                |
| Labour and overheads |   |                                |

There must still be kept the records already described, by which calculations may be made of standard hours produced, losses of labour and overheads in production and losses of material in production.

#### **Consumable Stores and Loose Tools**

So far we have dealt with the records needed to account for what happens to raw material going into and through the factory and the work that is done on it. In addition, most factories consume on the shop floor consumable stores and loose tools: these are normally received and held in stores then issued against requisitions. The requisitions should be valued, in order to charge each department with its consumption and thereby make it account for what it has used.

#### **Factory Services**

Similar considerations apply to all the different factory services consumed in the different departments. Such services include: maintenance and repair services; materials handling; and power, including steam, electricity, compressed air, hydraulic power, refrigeration (occasionally) and water (if significant in cost or quantity). If any service costs a significant amount records

should be available showing who has consumed what, so that each user can be made to account for consumption.

#### The Future

So much for what is needed. How will it be provided in time to come? It is probable that the future link between the shop floor records and management accounts will be an electronic one. In the factory attention is turning to automation, the automatic control of a series of operations by electro-mechanical and other means. Similarly feeds and speeds of engineering machine tools are being controlled by electronic devices.

The accountant's need is in the field of instrumentation, not only measuring flows, but counting automatically what goes in and what comes out of different processes; and not only counting but also recording the figure in a form subsequently usable by the accounting system. An obvious choice for this recording might be standard teleprinter tape. In the United States, the *United States Steel Corporation* is making extensive use of teleprinter tape as the "common language" of many different recording functions in the business. Thus,

automatic coding and recording of ingoing material and parts, and of production coming off machines, could be linked electrically to teleprinters in the progress department or accounts department. These tapes could then be used to actuate conventional accounting machines. Or, the electrical connection could be direct to a machine punching conventional punched cards. Likewise, weighing forms nearly as common a method of measuring as does counting of units. To connect automatic recording to a normal weighing platform would not seem difficult. Equally useful, electrical instrument engineers have devised instruments that can be attached to crane jibs to measure electrically the weight lifted by the crane. Again, automatic electric recording of tonnages would seem easily linked to give inputs of raw material and outputs of products such as steel, minerals or grains. So, as we mechanise the accounting processes used to produce the accounting information needed by management, we might turn to the instrumentation industry to provide automatic recording of the information we need from the shop-floor in a form capable of direct feed into our accounting machines.

## Extortion in Bankruptcy

By W. H. D. WINDER, M.A., LL.M.

ALL PROFESSIONAL MEN who may be concerned in bankruptcy proceedings, actual or threatened, either on behalf of the debtor or a creditor, are aware of the close scrutiny of those proceedings by the courts. The object of proceedings in bankruptcy is to make the debtor's assets available for rateable distribution among his creditors. No creditor is entitled to have recourse to such proceedings for the purpose of obtaining some collateral advantage for himself. Moreover, the threat of bankruptcy, with the deprivation of property and status which it involves, may be a potent instrument of oppression and of extortion. These are the considerations which the courts have referred to in laying down and applying the rule against "extortion" and for the penalty for breach of that rule which it has been found necessary to provide in the shape of disqualification from founding any subsequent bankruptcy proceedings upon any debt in relation to which a charge of extortionate conduct has been made good. There may be extortion even though the collateral advantage obtained is trifling in comparison with the amount of the debt. The whole subject of extortion in bankruptcy proceedings has recently been analysed by the Court of Appeal in the case of *In re Majory* [1955] 2 W.L.R. 1035.

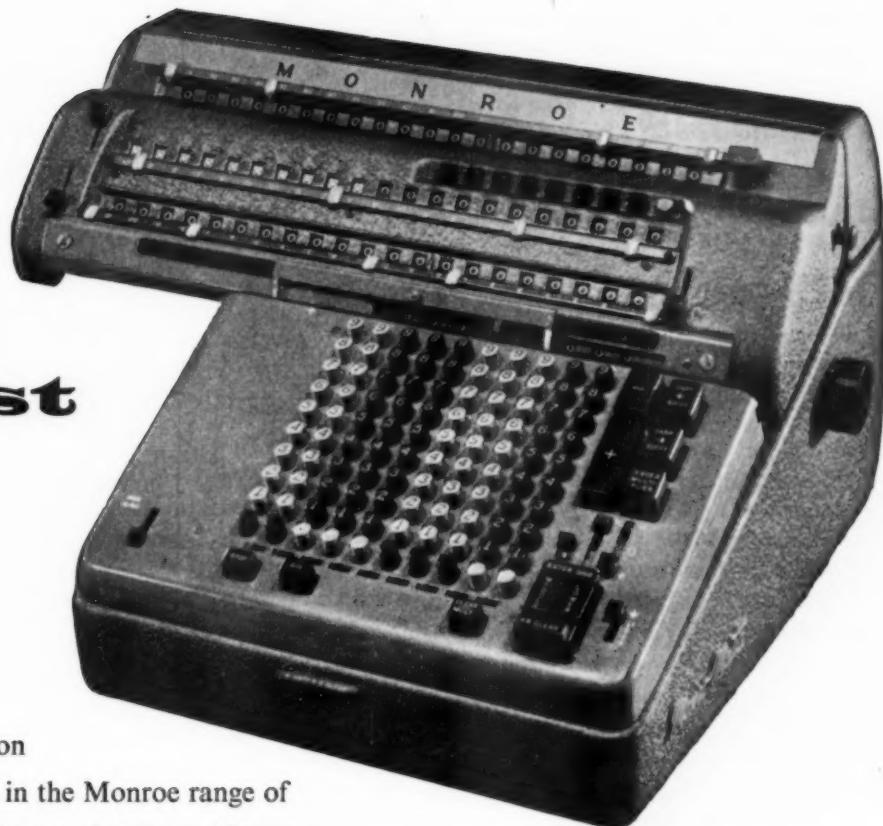
The court was at pains to examine the legal bases of previous decisions to discover what are in truth the characteristics of "extortion" as understood in bankruptcy law and what is the justification for the inter-

vention of the court where it is found to have taken place. As the courts have not always found it easy to apply the principle of extortion which they have devised to check abuses, it is not surprising that professional men have sometimes crossed the line which divides fair negotiation from extortion.

#### "Extortion" Distinguished from "Fraud"

It appeared at one stage during the argument before the court in *In re Majory* that the basis and justification of the decisions on extortion might be that, once a creditor had invoked or threatened to invoke the bankruptcy jurisdiction, he was irrevocably committed to an equal distribution of the debtor's assets among his creditors, so that any subsequent step on the part of the creditor which was likely to result in his obtaining rateably more of his debt than other creditors amounted to extortion. The Court of Appeal has authoritatively rejected such reasoning as this. No doubt anything done or proposed by the debtor designed to secure for the creditor in the bankruptcy more than his proper share of the assets would be vicious and tainted. The case of *In re Shaw* [1901] 83 L.T. 754 was such a case. There the creditor had proposed, as a term of his consenting to the composition of 10s. in the pound which the other creditors had approved, a scheme whereby he would in fact have received more than 10s. in the pound of his debt. The scheme involved, in other words, a plain fraud upon the

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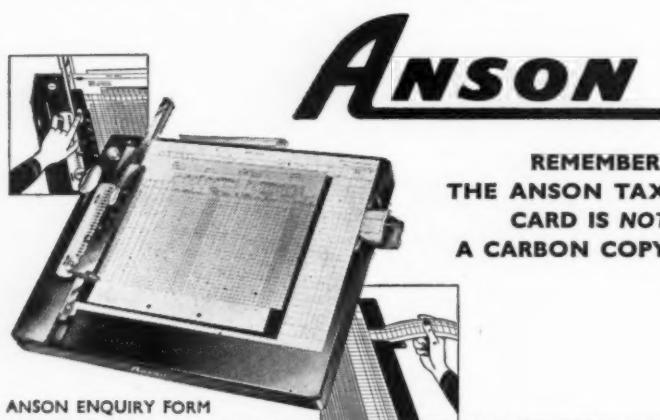
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other creditors. The court refused to allow the creditor in question to bring bankruptcy proceedings.

Frauds or attempted frauds upon other creditors are to be distinguished from extortion or attempted extortion practised on the debtor. The courts will not, in the exercise of their discretion under Section 5 (3) of the Bankruptcy Act, 1914, make a receiver order at the suit of one who has attempted such a fraud. That Section reads:

If the court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, *or that for other sufficient cause no order ought to be made*, the court may dismiss the petition (italics inserted).

#### Advantageous Terms not Necessarily Extortionate

A creditor is not irrevocably committed in all circumstances to equal distribution of assets. On any other view a creditor who had served a bankruptcy notice in respect of a judgment debt and who had reason to suppose that the debtor's assets were insufficient to pay all his creditors in full could not safely accept payment in full of his debt according to the terms of the bankruptcy notice itself. It was argued in *In re Majory* that anything done or any agreement or arrangement made by a creditor under the shadow or threat of bankruptcy proceedings whereby the creditor might obtain from the debtor a penny piece more than the sum "to which he was legally entitled" amounted to extortion within the meaning of the law of bankruptcy, even though there was no true element present of impropriety or oppression, as those words are commonly understood. But the Court of Appeal held that such a proposition was too widely stated and could not be justified by the decided cases. It appeared to involve the assertion that any sum which a debtor might agree to pay over and above the actual amount of the judgment debt was a sum "to which the creditor is not legally entitled", and which he is presumed in law to have exacted from the debtor by bankruptcy proceedings or the threat of them, whatever might be the circumstances in which the debtor may have agreed to pay the additional sum.

No doubt, where a creditor has, for example, agreed to accept payment of his debt in instalments, a sudden demand on his part for his solicitor and client costs, without any consideration, as a term of not proceeding upon a bankruptcy petition would properly be regarded as extortion. And any demand by a creditor to be paid a full indemnity for costs over and above his ordinary party and party costs is very likely to be regarded with great suspicion where the threat of bankruptcy is present. But the court thought that a creditor might perfectly well, after judgment and before bankruptcy proceedings have been initiated or threatened, make terms with his debtor to accept payment of his debt by instalment or otherwise upon terms advantageous to the debtor. He may as consideration for the concession which he makes say to the debtor: "If I am to wait for payment or if I am to accept some form of substituted security, at least you

must indemnify me against the legal expenses to which you have put me." Any reasonable additional sum which the debtor thereby agreed or engaged himself to pay for costs could not be described as a sum to which the creditor "was not legally entitled." Were it otherwise, the result would be highly disadvantageous to honest debtors.

If a comparable arrangement or promise is made or given after bankruptcy proceedings have been begun or threatened it cannot merely on that account be held automatically and in all circumstances to constitute extortion on the part of the creditor. No doubt the initiation or threat of bankruptcy proceedings, with all their quasi-penal consequences, can be a most potent instrument in the hands of a creditor, and provides, readily enough, scope for oppression, as the Master of the Rolls said in *In re Majory*. "No doubt," he added, "the court will view with a jealous eye any bargain proposed or demand made by a creditor wielding such a weapon. But the question to be considered, albeit with due regard to the unequal position of the parties, is, whether there has been oppression: whether there has been extortion in fact."

#### Instances of Extortion

The judicial precedents are not all readily reconcilable but the following three instances of extortion can be safely accepted as guides to the attitude of the courts, being accepted by the Court of Appeal in the recent case.

In *In re Otway* [1895] 1 Q.B. 812 the petitioning creditor endeavoured to obtain £25 from a debtor as a condition for agreeing to adjournment of the petition. The attempt failed, but although the petitioning creditor did not succeed the court held that he had attempted to extort money from the debtor for his own purposes, and it declined to allow him to have the advantage of using the process of the court in bankruptcy proceedings against the debtor. *In re Atkinson* [1892] 9 Morr. 193 was a case in which as a consideration for consenting to various adjournments, various sums were paid by the debtor to the petitioning creditor, and it was held that the registrar was wrong in making a receiving order against the debtor, because where a bankruptcy petition has been made use of for an inequitable purpose, such as for the purpose of extorting money from the debtor, it is the duty of the court to refuse to make a receiving order.

In *In re G.* [1900] 44 S.J. 345 the creditor had made terms for the withdrawal of his first petition, which included a sum of £20 being added as a "bonus" to the debt. He later obtained judgment in respect of the balance of the original debt so increased, and sought to invoke bankruptcy proceedings upon that judgment. It was held that he could not be allowed to do so. Lindley, M.R., said: "When we look behind the judgment in this case we find that the second promissory note was substantially, to some extent, obtained by extortion based on an abuse of the bankruptcy process."

It by no means follows that because the solicitation comes in the first instance from the debtor there can be no extortion. It might well be that, in his answer to the request of the debtor, the creditor did in fact put pressure

upon the debtor. Each case must be carefully examined. *In re Bebro* [1900] 2 Q.B. 316 is an example of a case in which there was held to be no extortion. A creditor, having presented a bankruptcy petition against his debtor based upon a particular debt, such as a judgment debt, consented to its being dismissed on the terms of the debtor agreeing to pay a fresh debt of increased amount. The fresh debt was for consideration. It was held not to be an abuse of the process of the court for the creditor, when the debtor made default, to present a second petition based upon the new debt, as the creditor had not used extortion or pressure towards the debtor.

#### Limits of Extortion

One of the principles enunciated by the Court of Appeal in *In re Majory* is that extortion in bankruptcy law has no special and artificial significance divorced altogether from the ordinary implication of the word. But its ordinary implication cannot easily be stated with precision. This is no doubt why the court enunciated a second principle to the effect that it is a question of fact in all the circumstances of the case whether there has been, in truth, extortion. If the question were to be put to a jury it would be framed something like this: "Is the petitioning creditor guilty of using or threatening bankruptcy proceedings at all as an instrument of oppression?" This is the question which any person faced with the problem should put to himself.

On the facts of the recent case the court gave a negative answer to such a question. Those facts are worth a careful statement to illustrate the limits of extortion in bankruptcy law:

After issue of a specially indorsed writ claiming £800 for money lent with £12 5s. costs, but before the issue of any judgment summons, the debtor visited the solicitors acting for the creditor and, having admitted the debt, offered to make an arrangement whereby he could pay off the debt by instalments. The solicitors said that, in addition to being satisfied about the arrangement, their client might require the debtor to pay all the costs which he, the creditor, had had to incur. The debtor agreed to do so. No mention was made at that stage of bankruptcy proceedings, but the solicitors said that their instructions did not permit them to delay issuing a summons for judgment, and a summons was in fact issued. The debtor's solicitors wrote confirming the offer made to pay by instalments, and added that the debtor was prepared to pay "your reasonable costs." After judgment was obtained, the creditor's solicitors informed the debtor's solicitors that the offer made by the debtor was unacceptable, and that deferment, if any, could only be on immediate payment of £440 and the balance to be paid in two instalments. The amount of the costs to be paid in addition was stated to be £21, i.e., £8 15s. more than that awarded by the judgment, representing the full amount of legal costs which the creditor had incurred. In bankruptcy proceedings which followed the debtor disputed the petition and opposed the making of a receiving order on the ground that the creditor had attempted in connection with the proceedings to extort £8 15s. from the debtor in excess of the sum lawfully due.

The court held that the creditor was not guilty of extortion, for the promise by the debtor to pay costs was given before any mention of bankruptcy proceedings and

even before the issue of the judgment summons, and was not given as the result of any threat by the creditor. The promise was made at an interview of the debtor's own seeking, in order to see if the creditor could be persuaded to accept something less than his strict rights entitled him to require. It was not indeed until after the promise had been clearly made that the debtor was informed that the creditor would in any case proceed to judgment. Once the promise had been given, the matter of solicitor and own client costs ceased to have any real significance in the subsequent negotiations, which were concerned exclusively with the amounts and times of the instalments and another matter. It is true that in general a demand by a creditor for solicitor and own client costs, if made by a creditor under the threat of bankruptcy proceedings, will always be looked upon by the courts with the greatest suspicion. The Master of the Rolls explained the position in this way:

These costs can never, as such, be the subject of any legal claim; and a promise to pay them, even though apparently given in consideration of some concession to the debtor, will easily and readily be attributed to the threat without which the promise would never have been given. But, as we have tried to show, the promise in the present case was given when there had been no threat of bankruptcy proceedings and, in our judgment, in circumstances when no shadow of future events of that kind affected it. Thenceforward the matter of costs played no further significant part in the proceedings, at least if judged from the viewpoint of possible oppression or extortion by the creditor.

#### Two Principles of Extortion

In conclusion, reference should be made to two further principles which the Court of Appeal has formulated after detailed consideration of all the reported cases on the subject.

(i) The so-called "rule" in bankruptcy is no more than an application of a more general rule that court proceedings may not be used or threatened for the purpose of obtaining for the person so using or threatening them some collateral advantage to himself, and not for the purpose for which such proceedings are properly designed and exist; and a party so using or threatening proceedings will be liable to be held guilty of abusing the process of the court and therefore disqualified from invoking the powers of the court by proceedings which he has abused.

(ii) On the other hand, having regard to what Lord Justice Jenkins called in *Ex parte Henly's, Ltd.* [1953] Ch. 195, 212 "the potent instrument of oppression" which bankruptcy proceedings (with their potential consequences upon property and status) provide, the court will always look strictly at the conduct of a creditor using or threatening such proceedings; and if it concludes that the creditor has used or threatened the proceedings at all oppressively, for example, in order to obtain some payment or promise from the debtor or some other collateral advantage to himself properly attributable to the threat, the court will not hesitate to declare the creditor's conduct extortionate and will not allow him to make use of the process which he has abused.

## Accounting Automata

THE BUSINESS EFFICIENCY Exhibition held last month at Olympia is believed to have been the largest exhibition of its kind ever staged anywhere in the world—certainly it was the largest ever staged in this country. No similar opportunity is available to the potential user to compare under one roof the various products competing for his interest. Most of the equipment shown is available for purchase in this country, with tantalising exceptions where certain highly developed machines are only available in the United States.

It is in the mechanisation of accounting routines that development is most rapid. An example on one stand showed the automatic preparation of consumers' accounts in an electricity undertaking, the primary punched information being meter readings and the customers' tariff particulars. Such a particular application might well serve as an introduction to the uses of electronics in accounting. In any great exhibition a "secret weapon" can usually be sensed: something new and rather mysterious hinting of untold wonders in the future. At Olympia this year it was electronics, and in the machine which made out the electricity accounts an electronic calculator is introduced, in which the complicated calculations involved in the application of tariff rates to unit electrical consumption are carried out at lightning speed. These calculations follow a certain programme, which is set up in the calculator. No less than 70 programme steps are required, but the electronic calculator performs these so rapidly that there is no hold-up in the continuous output of the printing unit where the customers' accounts are emerging.

All three specialist firms manufacturing punched card equipment showed electronic appliances using punched cards as the input medium. The leading manufacturers of keyboard accounting machines are also

exploring this field: their accounting machines, or other primary entry machines such as cash registers, will prepare the punched tape which will probably form the input to the electronic machines. Both methods of input, by suitably sorted and collated punched cards or coded punched tape from accounting machines, are in use in the United States. Present and potential users of either type of equipment can look forward to developments that will take much of the drudgery out of their accounting work.

Electronic data processing and calculating machines are offered for sale, but only for use in conjunction with conventional punched card installations, either of the electro-mechanical or mechanical type. Their precise descriptions, such as *Programme Controlled Electronic Digital Computer*, give a clue to their functions and their method of operation, and the machines are offered supported by the brains and resources to make them work. One company has the machines not for sale, but for rental, and makes the point that the concern is selling not a machine but a service. On being acquainted with the accounting problem the company will endeavour to solve it, using whichever of its machines are suitable, changing them and adapting them as required, and introducing the latest ideas and modifications as they emerge.

As concerns grow larger and electronic machines are installed in one location for mass processing of data, the communication of primary information from outlying units assumes great importance. At the exhibition the use of code-perforated tape for this purpose was demonstrated—primary information was being sent from one stand to another using teleprinter techniques.

However, the glamour of the secret weapon has not overridden other considerations. Small, carefully de-

signed book-keeping machines were on view, with possibly just two registers and costing £400 or £500. A sound system of machine book-keeping for the smaller concern can be put in with the assistance of these machines, including sales ledger, purchase ledger, payroll and stock ledger. Refinements previously available only on the large expensive machines—such as front-feed form insertion and automatic motor bars and tabulating—are now standard on these smaller machines, and they can seriously be considered by many concerns.

Simpler equipment demonstrated the application of machine accounting techniques to hand book-keeping. The latest desk appliances are designed to accommodate three or more documents for simultaneous entry, with automatic devices for form alignment. It is claimed, with justification, that a book-keeper used to the old methods can master these new devices in ten minutes, and many posting and transcription errors are automatically eliminated. It was on payroll work that these systems found their feet, but they are now available for all normal book-keeping routines.

The stand on which primary information was being transmitted by teleprinter methods to a central punched card installation also showed a new system for the electronic transmission of written messages between locations connected by telephone. These messages may be typed or handwritten on a standard sized piece of paper and may include diagrams and symbols: a facsimile reproduction, requiring no processing or special handling, comes straight off the machine at the receiving end. There is an obvious application of these machines in concerns where messages and instructions are numerous and detailed accuracy essential.

Many examples of attractively designed serviceable office furniture and equipment were shown, all the normal contents of an office being available in matching styles. We seem to have passed through the phase when metal furniture was setting the pace in design de-

velopment. A swing back to wood can be discerned, some of the latest wooden office furniture being masterly in both design and construction.

All office equipment and auxiliary accounting equipment was generously displayed, design playing an important part. Typewriters, dictating machines, duplicating machines, adding, listing, and calcu-

lating machines in contemporary design were all featured. Much attention was paid to quietness in operation, a very important consideration in the modern office. Office duplicating has been the subject of much intensive research, and by such means as the photographic production of the master copy, high-class multi-colour work may be carried out in the office. One machine is in

fact a complete miniature offset-litho printing machine, designed for use in the office by non-technical operators.

In all this office equipment, makers have kept in mind the small user. Relatively inexpensive items of equipment are available, often incorporating refinements previously available only in the more expensive ranges.

## Lessons of the Lloyd's Case

THERE ARE IMPORTANT lessons to be drawn from the Lloyd's underwriters' case (*Regina v. Wilcox and Others*), reported in previous issues of ACCOUNTANCY (May, page 163, and June, page 200). The root of the trouble in which those charged found themselves appears to have been faulty underwriting. The faults may well have resulted from inexperience in the particular branch of the very complicated business in which they were engaged. The active underwriter is the hub of the wheel. On the one hand the "names," who take the risk but often are virtually absentee underwriters, are entirely dependent on him, and on the other hand the insured are in contact with the "names" only through him. He does the work and exercises the judgment needed in underwriting the risk and determines the premium at which he will grant the cover. A difficulty is the length of time, often three years or more, which must elapse before the results are accurately shown in the accounts—if, therefore, the premium rates are too low losses are ever mounting but their full effects, if not invisible, are not seen clearly except with a prolonged lag.

The complication of the business makes it practically essential, or at any rate usual, for the accounts to be written up by the accountants' staff, frequently in their own office, on information supplied by the active underwriter. He or his staff must

attend at the Exchange, and after examining the particulars of risks provided by the brokers, must "underwrite" the business by fixing rates of premium at which it will be accepted, signing on behalf of the syndicate of "names". Then the active underwriter or his staff will supply to the accountants particulars of the risks accepted, for use in writing-up the books. The brokers also supply notes of risks underwritten, for checking by the underwriter and in confirmation. From the totals of premiums so shown provision is made, in accordance with the rules laid down by Lloyd's Committee, for appropriate funds to be set aside. The premiums accepted by Wilcox and the others appear to have been too low. Further, at a fairly late stage of events, presumably when the facts began to be realised, the system of reporting by the underwriter was altered to one showing what were called "net premiums." These "net premiums" consisted of premiums less claims—claims which had nothing to do with the premiums of the period covered by the statement but related to risks undertaken long before. This method of reporting naturally meant that the calculation of the provision to be set aside according to the rules was too low, though it appeared to conform to the requirements. The returns to the Committee certified by the accountants were based on the "net premium" sheets with which they had

been supplied: Lloyd's Committee was deceived and what was done amounted to falsification.

Apparently the accountants' clerks engaged in writing-up the books accepted without verification the statements supplied to them and the department concerned with the audit and certification never called for, or never used, the brokers' notes of the bargains. The audit lesson is therefore very simple: all auditing should begin with the document coming from outside. Vouching the record with the brokers' notes would have disclosed at once what was happening.

The cause of trouble second in importance was that excessive drawings were made by principals out of the funds set aside to cover the provisions required by the Committee for claims—funds which were, as explained, already depleted and were also, in effect, trust funds. The drawings should have been reported by the accountants' clerks to their principal and by him to the Committee. It is clear that these drawings would in any event have come to light, as a debt due by the underwriter to the fund, whenever accounts were prepared, had it not been that a naïve method of concealment—"the exchange cheque" system, which simply amounted to paying in a cheque on December 31 and drawing it out again on January 1 or thereabouts—was successfully employed for a protracted period. When the amount is substantial this device ought not to deceive any novice in the profession, for a glance through the accounts could hardly fail to reveal the operation.

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# The Royal Commission Report

REFERENCE TO THE list of recommendations published on pages 259-264 of this issue is enough to indicate the wide field of inquiry and deliberation which has been covered by the Royal Commission on the Taxation of Profits and Income (Command 9474, Her Majesty's Stationery Office, price 12s. 6d. net.) With the index, the report of the Radcliffe Commission is a volume of 487 pages. The difficulties that have been met are indicated by the fact that not only is there a memorandum of dissent from three members respecting certain important recommendations of the majority, but there are also reservations on certain aspects by other members, including Mr. J. Millard Tucker, Q.C., and Mr. W. S. Carrington, F.C.A.

The report is of great value, quite apart from the recommendations, for its statement of the existing law on many points, and is worth reading from that viewpoint alone. It is only to be hoped that it will have a better fate than the report of the Codification Committee in 1936.

### What is Income?

In discussing what constitutes income, it is pointed out that generally speaking there can be no income without receipt, except for owner-occupiers who are taxed on the benefit of occupation; an increase in value of what a person owns is not taxable. This latter aspect is fully discussed in connection with capital gains.

A useful reminder is, "it is not always easy to recognise that it is the office or employment itself that constitutes the source of income, not the services rendered or the contract that secures the payment." Recommendation (20) would simplify the position regarding employments abroad and make the law much more equitable. There are some hard cases today, particularly the instance of a director of a United Kingdom company who performs all his duties abroad.

A receipt is treated as income or not according to its status in the hands of the recipient. Whether the payer charges it to, or pays it out of, income or capital is irrelevant. This prevents any recommendation that an annuity under a will or settlement should not be taxed as income.

### Profits Tax

On the subject of corporate taxation, the Commission gives weight to the fact that the yield makes it difficult to dispense with profits tax unless there is a substitute. It is pointed out that an individual pays sur-tax on income in excess of £2,000 and a company pays profits tax on a similar excess. The fact that retained profits belong in the ultimate view to the shareholders is discussed, and the burden that falls on the equity shareholders in respect of distributed profits, particularly where the ratio of Preference capital is high, is considered. Alternatives are examined at length. The conclusion is that differential rates may have had some value in the immediate post-war years, but the arguments against must now prove deci-

sive, and the tax should be a flat-rate one on total profits, requiring the dropping of the exemption and abatement reliefs (Recommendations (34) and (35)). All businesses carried on by corporations, whether nationalised or not, should be liable without any privileges (36 and 37), except that industrial and provident societies should pay only on retained profits (38).

### Isolated Transactions

The discussion of the liability of isolated transactions may remove some popular misconceptions. Emphasis is laid on the fact that for a purchase and sale to be taxed there must be an adventure in the nature of trade, that is, the person must be a dealer, and it is the profit from the venture that is taxed. A mere realisation of property does not give rise to income unless there is a source of dealing in such property. Indeed, a sale of one property is often but a step to a purchase of another, as where a man has to move houses. There should be no fixed rule for determining whether or not there is an adventure in the nature of trade. To ensure uniformity in applying the law, it is recommended that all appeals on the question of whether or not there is such an adventure should be heard by the Special Commissioners.

The Commission summarise what they regard as the major relevant considerations that bear upon the "badges of trade" under the headings: subject matter of the realisation; period of ownership; frequency or number of similar transactions by the same owner; supplementary work done on or in connection with the property realised; circumstances responsible for the realisation; and motive.

### Expenses

The discussion of expenses under Schedules D and E leads to the recommendation that the Schedule D "wholly and exclusively" rule is satisfactory if there is omitted the test propounded by Lord Davey in *Strong v. Woodfield* ("for the purpose of earning the profits," which limits the statutory wording "for the purposes of the trade"). On Schedule E, however, Recommendations (4) and (10) to (14) will be welcomed as likely to give more equitable results with less argument, and with little effect on the tax yield. Indeed, the tax yield might be more, as there are some who would work harder to produce income if they had less trouble to get legitimate expenditure allowed. It is to be hoped that the Revenue attitude towards change will be overridden by the Chancellor. No part of the Report seems more urgent than this.

### Fluctuating Incomes

The problem of fluctuating incomes invites the answer of averaging, but after reviewing the advantages and disadvantages, the Commission had to turn it down as an administrative impossibility without addition to the

Revenue staff disproportionate to the amount of justice involved. The general scheme being out of court, a partial scheme may be better than nothing; a rough and ready device to meet really serious cases of hardship is found in Recommendations (8) and (9).

#### Post-Cessation Receipts

Criticisms have been levied at the happy position of barristers and others who are assessed on a "cash basis" in being able to escape tax on any fees collected after cessation of practice, e.g., on becoming a Minister of the Crown, going abroad, etc. (this has often been considered a retirement benefit!) The Commission recommend (16) that such fees should be assessable but only after recommendations (1) and (8) have been implemented, that is, after provision has been made for superannuation relief for such persons and for relief on fluctuating incomes.

#### Inflation and Replacement

On the subject of allowances at replacement cost, the rival theories which divide both accountants and economists are set out. "It does not seem that either can disprove the other, since each proceeds more or less logically from a different conception of what it is that depreciation is intended to provide for." The Commission accordingly examines (a) revalorisation (b) replacement allowance (which would be in addition to annual allowances) and (c) initial allowance devices. Reasons are set out for rejecting (a) and (b); and the Commission does not regard initial and investment allowances as directly concerned with the problem of inflation, but as stimulants to investment in selected kinds of assets.

Extensions of the existing capital allowances, etc., are suggested in (21) to (23), which would remove what are really anomalies. Some readers may be startled to find that though capital gains in general are not recommended as subjects for taxation, capital gains on plant and machinery should be taxed.

#### Stock Valuation

The adoption of Recommendation (28) that the trader should be allowed to use any proper method of stock valuation suited to his business would save some arguments—but would give rise to others! The Commission state that "first-in-first-out" is the generally accepted system of appropriating stocks in this country; neither the "base stock" nor the "last in first out" method has any considerable currency. A set of rules is proposed to prevent abuse of the proposals to remove the uncertainties of the present position.

#### Losses

Farming losses are pin-pointed. While the losses of the "hobby-farmer" are "probably exaggerated" and criticisms can be met by the small amendment proposed in (29), the relief proposed by (30) would enable many traders to get relief for capital allowances against other income where it is impossible now.

#### Partnerships

The present position is that if the partnership method of dividing profits results in one or more being in debit, no relief is given. It is recommended that loss relief should be given, those in credit paying accordingly (31). The anomaly that there can be a partnership assessment under Section 170 in respect of partnership charges although the partners have private incomes sufficient to cover them would be removed by (32).

#### Basis of Assessment

The Commission came to the conclusion that a change to the current year basis is both feasible and desirable in the case of companies under Cases I and II and for all under Cases IV and V (Recommendation (46)). The change must be such as to avoid interruption of the flow of revenue to the Exchequer; avoid increasing the difficulty of making Budget estimates; solve transitional difficulties; and avoid embarrassing companies in making provisions or reserves for future tax liabilities. The proposal would involve a provisional assessment on the preceding year basis, to be adjusted to actual when the figures are available. Underpayments and overpayments of tax would carry interest at a full commercial rate. The assessments for the last two years preceding changeover would be fixed by averaging the profits of those two years with the year before (similar to the Board's practice on a change in date of accounts). Capital allowances would take into account all expenditure.

Case III on "actual" would give rise to too much inconvenience, and the taxpayer has already many rights under this Case. The anomalies that arise under Cases IV and V ought to be and would be corrected by an "actual" basis (as applied to Case IV before 1927).

#### Capitalisation

Recommendations (47) and (48) speak for themselves. It is hoped that the discussion on this point may remove some fallacies regarding bonus shares. It is stated that the position of bonus debentures is different; they give the shareholder, *qua* debenture holder, altogether different rights from those he had before, and the Commission think they ought to be treated in the same way as a cash dividend, except where they are received by a trust in which such an issue could not go to any person as part of his personal income.

While capital profits are not to be taxed, the Commission regard them as taxable in the hands of the shareholders as if they were dividends out of revenue profits. This would remove the anomaly that arises at present under Case V where such dividends paid by a non-resident company to a resident of the United Kingdom are his income. We are not clear whether it is the intention to tax the recipient (say under Case III or VI), or make the payment subject to deduction of tax at source. To gross it up as a free of tax dividend would be to tax something which never existed.

We shall discuss the remaining recommendations in our next issue.

(To be concluded.)

# Majority Recommendations

The principal recommendations involving some change in the existing system are as follows:

## Savings (Chapter 3)

(1) Superannuation relief should be continued and extended on the lines recommended in Chapters 4, 6 and 7 of the second Tucker Committee's report, but subject to a restriction in the amount of the lump-sum benefit taken in tax-free form (paras. 71-75).

## Capital gains (Chapter 4)

(2) In order to promote consistency in the imposition of liability on profits from isolated transactions in the nature of trade all appeals in this field should be heard by the Special Commissioners (para. 117).

## Expenses (Chapter 5)

(3) The Schedule D rule governing deductible expenses should be declared by statute not to involve the test propounded by Lord Davey in *Strong and Co. of Romsey Ltd. v. Woodifield* (para. 128).

(4) The Schedule E rule governing deductible expenses should be amended to permit the allowance of expenditure "reasonably incurred for the appropriate performance" of the duties of the office or employment (para. 140).

## Covenants (Chapter 6)

(5) Covenants for the purpose of discretionary trusts should be rendered ineffective for tax purposes (para. 157).

(6) The maker of a covenant in favour of a child, grandchild or other member of his family should be required to produce each year formal declarations by himself and the beneficiary as to the absence of any agreement or understanding for the return, direct or indirect, of any part of the benefit (para. 161).

## Charities and charitable subscriptions (Chapter 7)

(7) A more restrictive definition of charity for tax purposes should be enacted (para. 175).

## Fluctuating incomes (Chapter 8)

(8) To mitigate the hardship that progressive taxation causes where incomes accrue with marked irregularity, a fall in total income from one year to the next of at least 50 per cent. should entitle the recipient to relief by averaging (para. 203).

(9) Consequentially, the special provisions for the spreading of certain

receipts from the sale of literary, etc., copyright should be repealed (para. 207).

## Benefits in kind (Chapter 9)

### Personal expenses (Chapter 10)

(10) The scope of the special legislation dating from 1948 which regulates the tax treatment of benefits in kind and payments to reimburse expenses when received by a company director or by an employee with remuneration of £2,000 or more should be modified as follows:

- (a) The legislation should apply to any person, whether director or employee, with remuneration of £2,000 or more, but not to a director with remuneration below that figure unless he is a controlling director of a director-controlled company (paras. 218, 228).
- (b) Directors or employees of charitable bodies or non-trading concerns and employees of educational establishments or local authorities should cease to be excluded (paras. 221, 228).

(11) A director should be entitled to the same exemption as an employee in respect of living accommodation which is customarily or necessarily provided on the business premises and which he is required to occupy for the proper performance of his duties (para. 219 (2)).

(12) The Inland Revenue should abandon its attempt to take so-called "home savings" into account under the special legislation (para. 232).

(13) The special relief for additional travelling costs occasioned by war circumstances should be terminated (para. 237).

(14) Where a taxpayer follows two or more separate callings relief should be given for the cost of travelling between his principal place of work and any place where a subsidiary calling is exercised (para. 241).

## Compensation for loss of office (Chapter 11)

(15) Payments of compensation for loss of office (not being payments for physical injury or impairment of earning power suffered during service) should be taxable (para. 246). Liability should be determined according to a modification of the formula proposed by the second Tucker Committee for purely ex gratia retirement benefits in lump-sum form, and the modified formula should be applied also to the latter benefits (para. 252).

## Post-cessation receipts (Chapter 12)

(16) Post-cessation receipts which now escape tax by accruing after a trade or profession has come to an end should be rendered taxable, but only when the recommendations summarised at (1) and (8) above have been implemented (para. 262). The method of charging such receipts should take due account of expenses of collection and unrelieved losses in the trade or profession (para. 264).

(17) The treatment of recoveries on account of trade, etc., debts previously regarded as bad or doubtful should be rationalised in order to ensure that tax shall be recoverable on any excess allowance for those debts (para. 265).

## Overseas income of individuals (Chapter 14)

(18) Legislation should be passed which would as far as is practicable codify, with certain amendments, the working rules by which a person's residence and ordinary residence are determined. In particular—

- (a) the maintenance of a place of abode in the United Kingdom should cease to be of decisive importance in determining residence;
- (b) the test of residence in the case of the ordinary resident should be put on a precise time basis (paras. 293-295).

(19) The benefit of the remittance basis for overseas income should be made available to any aliens who, though domiciled in the United Kingdom, are not ordinarily resident here (para. 296).

(20) Clearer and more rational rules should be adopted to determine whether income from employment arises from a source in the United Kingdom or from a "foreign possession."

- (a) If all the duties are performed overseas the employment should be a foreign possession (para. 300).
- (b) If the duties lie wholly in the United Kingdom the employment should be a United Kingdom source of income (para. 300).
- (c) Incidental duties carried out in a country other than that in which an employee is stationed should be ignored for this purpose, but an employment with "mixed" duties should be apportioned (paras. 300, 305).

These rules would supersede the rule which now treats a directorship in a United Kingdom company as a source of United Kingdom income even though the duties lie overseas, but are without prejudice to the existing special rules as to Crown servants (paras. 302, 307).

**Depreciation and wasting assets (Chapter 15)**

(21) Capital allowances should be given for commercial buildings (para. 382).

(22) Surpluses realised on the sale of assets qualifying for capital allowances should be subject to tax, except in the case of ships built before 1946 or agricultural buildings and works (paras. 391-393).

(23) Cutting and tunnelling work in connection with an industrial building or structure should qualify for annual and balancing allowances (para. 400).

(24) Recurring payments for business purposes for the hire or use of an asset should be deductible in computing the payer's profits and taxable income of the recipient (para. 404).

**Mining concerns (Chapter 17)**

(25) A depletion allowance should be granted for the cost of acquiring, after an appointed day, mineral rights or areas in the United Kingdom. This should cover the cost of acquisition less any residual value at the close of working (para. 445).

(26) The existing depletion allowance for overseas minerals should be brought into line by the removal of the present limitation by reference to the cost to the first United Kingdom purchaser (para. 445).

(27) As recommended by the first Tucker Committee:

(a) When an overseas mine or mining concession comes to an end a balancing allowance should be available for the cost of land forming the site of works, etc., or sports grounds nearby (para. 446).

(b) Capital allowances should be granted for the cost of offices at overseas mines: these and the present allowances in respect of workers' dwellings should be calculated by the "output" formula (para. 447).

**Stock and the computation of profits (Chapter 18)**

(28) Since no single method of stock valuation should be imposed a trader should be permitted to adopt any proper method that is suited to his business, subject to safeguards relating to the effect of a change from one method to another (paras. 472-473).

**Relief for losses (Chapter 19)**

(29) A loss in farming or market gardening should not rank for set-off against the taxpayer's general income unless the activities giving rise to the loss are genuinely carried on on a commercial basis (para. 494).

(30) Unexhausted capital allowances and investment allowances should be capable of set-off against general income for any future year (para. 506).

(31) A change is desirable in the system of allocating partnership income: a partner with a deficit should have the full amount recognised as a loss while the full amount of any surplus accruing to another partner should be regarded as taxable income (para. 510).

(32) Partnership charges in excess of partnership income should be regarded as franked to the extent that, on apportionment between partners according to their interests, they would be covered by taxed personal income (para. 513).

(33) Statutory relief should be available for losses on sporting rights maintained for letting (para. 517).

**Profits tax (Chapter 20)**

(34) It being necessary that company profits should continue to be subject to taxation that is more than a mere attempt to collect personal income tax in advance, this necessity should be met by simplifying the existing profits tax so as to make it a flat rate tax on total profits (para. 553).

(35) When profits tax is so recast the exemption and abatement reliefs should be dropped (para. 557).

**Profits tax: special classes of corporation (Chapter 21)**

(36) In principle nationalised undertakings should be taxed on the same basis as other concerns (para. 567).

(37) The profits and distributions of public utility undertakings should be taxed like those of other trading entities (para. 569).

(38) Under the flat-rate profits tax industrial and provident societies should be taxed only on the retained balance of profits (para. 573).

(39) Only the retained balance of building societies' profits should be charged—at the undistributed rate, pending the introduction of the flat-rate form of the tax (para. 577).

**Mutual trading (Chapter 22)**

(40) No surplus derived by a corporation from trading operations should be exempt from taxation under Case I of Schedule D on the ground of mutuality (para. 593).

**Claims for relief by certain bodies or business ventures (Chapter 23)**

(41) The B.B.C. should be exempt from income tax and profits tax on the "trading profits" of its main activities; but it should be liable to both taxes in respect of its subsidiary sources of income (para. 601).

**Overseas profits (Chapter 24)**

(42) A scheme should be introduced for recognising a special category of overseas trading concerns to be styled "overseas trade corporations," the profits of which would be exempted from tax so long as they were undistributed. This category should be defined so as not to preclude the exercise of central management and control within the United Kingdom, but should in other respects be strictly limited with regard to any internal activities (para. 689).

**Double taxation relief (Chapter 25)**

(43) The rule that in order to rank for double taxation relief an overseas tax must correspond to United Kingdom income or profits tax should be maintained, but the limitations automatically excluding from consideration irrespective of their nature (a) provincial, cantonal, etc., taxes in a non-Commonwealth territory, (b) municipal taxes, should be abolished (paras. 699, 701).

(44) The relief for "indirect tax" (i.e. tax borne by an overseas company on profits out of which a dividend is paid) now given in the case of Commonwealth territories and, under bilateral agreements, certain other countries should be available for all such tax on proof of the relevant facts (para. 708).

(45) Where a shareholder resident in the United Kingdom receives a dividend from a company resident in another country relief to the shareholder in respect of tax imposed in a third country on profits or income accruing to the company in that third country should, like the relief for "indirect tax" mentioned at (44) above, be generally available (para. 766).

**Basis of assessment under Schedule D (Chapter 26)**

(46) Schedule D tax should be assessed on a current year basis—

(a) under Cases I and II, for companies only (para. 776);

(b) under Cases IV and V, for all taxpayers (para. 789).

**Capitalisation and "capital" profits (Chapter 27)**

(47) Profits capitalised in the form of debentures or debenture stock should be included in income for sur-tax purposes unless received by trustees as part of the capital of settled property (para. 800).

(48) Special dividends paid by a company out of capital profits not themselves chargeable in the hands of the company should be regarded as taxable income of the shareholders (para. 808).

**Income from property: Schedule A (Chapter 28)**

(49) Schedule A assessments should be

capable of annual revision, thus obviating the need for many of the separate "excess rent" assessments required under existing law (para. 838).

(50) Gross annual value under Schedule A should be determined by the rent paid by the occupier (adjusted as appropriate), or the gross annual value for rating purposes, whichever is the higher (para. 844).

(51) The scale of statutory deductions for repairs should be reviewed after the next revaluation (para. 875).

(52) Legislation is required to secure in certain special cases that the benefit of the statutory deduction shall be enjoyed by the person in fact liable for the repairs (para. 876).

(53) For the purposes of maintenance relief:

- (a) Land and houses should be taken together (para. 880).
- (b) A claim should, in principle, be open to any person who both incurs the cost of maintenance (or part of it) and ultimately bears some of the Schedule A tax (paras. 882, 886).
- (c) An alternative basis of claim should be laid down by statute for the new owner of a property (para. 888).
- (d) Capital expenditure on farm-houses and farm buildings, etc., should be altogether excluded (para. 892).

(54) It should be made clear that void relief extends to other buildings as well as houses (para. 900).

(55) Relief for lost rent should be authorised by statute in Great Britain as it now is in Northern Ireland (para. 901).

(56) A tenant-occupier's right to recover Schedule A tax from his landlord should be strengthened (para. 909), and the rules as to the collection of Schedule A tax should be reviewed with a view to ensuring that changes of occupation shall not have the result of leaving the tax to be borne by the wrong person (para. 914).

(57) Steps should be taken to clarify the law as to the person liable for payment of the Schedule A tax in cases where a substantial premium has been paid for a tenancy of a flat (para. 915).

(58) The annual value of a Church of England parsonage house should cease to be attributed to the incumbent as income, and the provision which disqualifies a charitable body from claiming exemption under Schedule A when a trust property is in the occupation of an officer or servant with a total income of £150 or more should be repealed (para. 922).

#### Income from property: Schedule B *Chapter 29*

(59) Schedule B should be abolished (para. 926).

#### Administration (*Chapter 31*)

(60) Responsibility for making assessments should be transferred from the appeal Commissioners to the Inland Revenue Department (para. 943). The Schedule D taxpayer's right to be assessed, not locally, but by the Special Commissioners would be abolished (para. 948).

(61) Appeal Commissioners should also be relieved of their nominal responsibility for minor executive functions (paras. 950-951).

(62) Sur-tax administration might well be decentralised if this appeared administratively advantageous; there is no need to preserve the existing option under which a taxpayer can make a return of total income, not to his local tax office but only to the headquarters office concerned with sur-tax (paras. 945-946).

(63) A more general wording should be adopted for the declarations of secrecy made by those engaged in tax administration (paras. 949, 953).

(64) The Board should cease to be *ex officio* Special Commissioners (para. 954).

(65) The Board of Referees should no longer re-hear appeals relating to sur-tax on the income of close corporations: an appeal to that body should be an alternative to the existing appeal to the Special Commissioners (para. 957).

(66) The property qualification for General Commissioners should be abolished (para. 960).

(67) Appointment and removal of General Commissioners in England and Wales should be entrusted to the Lord Chancellor (para. 962).

(68) A retired Inspector of Taxes should not be appointed as Clerk to the General Commissioners for an area where he has served as Inspector at any time in the preceding ten years (para. 969).

(69) For the purpose of requiring appeal Commissioners to state a case for the opinion of a High Court it should no longer be necessary to express dissatisfaction immediately after their determination of an appeal (para. 970).

(70) The disputed claims now subject to the affidavit procedure should be determined after an oral hearing in the ordinary way (para. 971).

(71) The Board should have power to amend procedural provisions of the tax code by statutory instrument (para. 976).

(72) A right of deduction of tax should

be valid as against a government department or official body enjoying Crown privilege (para. 995).

(73) It should be obligatory to supply a certificate of deduction of tax if the recipient of the payment asks for one (para. 996).

(74) Where a right of deduction of tax has been overlooked at the proper time the maker of the payment in question should have a legal right of recourse against the recipient (para. 997); and an analogous right should be conferred on an employer who fails to deduct the full amount of the tax due from an employee under P.A.Y.E. (para. 998).

(75) A uniform period of 30 days should be adopted for all time limits now less than 30 days (paras. 1006-1007).

(76) There should be a comprehensive recasting of the longer time limits. *Prima facie* six years should be allowed; but in special cases a shorter period of two years would be appropriate (para. 1012).

#### Tax avoidance (*Chapter 32*)

(77) An expert body should be set up to examine whether any of the detailed provisions against tax avoidance are drawn too widely and whether they could be expressed with greater brevity and precision (para. 1029).

(78) Concurrently with the simplification of the profits tax—(34) and (35) above—the related anti-avoidance provisions should be cut down in number (para. 1033).

(79) The income chargeable to sur-tax under the legislation relating to close corporations should, in the case of a close corporation which is not an investment company, be that part only of the corporation's undistributed income which it would have been reasonable to distribute (para. 1038).

(80) An appropriate deduction in respect of estate duty should be made when income accruing before the death of a testator is attributed for surtax purposes to the residuary legatee (para. 1044).

(81) The section which prohibits "company emigration" without Treasury consent might well be made subject to annual re-enactment so as to mark its character as an emergency provision which should be abrogated when the emergency that brought it into existence has receded (paras. 1046-1047).

#### Tax evasion (*Chapter 33*)

(82) Every person carrying on a trade, profession or vocation should be under an obligation to keep certain simple business records unless a dispensation is given by the local Inspector (paras. 1052, 1054).

(83) Where a taxpayer supplies business accounts to support a formal return or in lieu of one—

- (a) the accounts themselves should rank as a return for assessment and penalty purposes (para. 1057); and
- (b) he should be required to give a personal certificate as to the completeness of the underlying records (paras. 1058-1059).

(84) A wife should be required to sign her husband's return for the purpose of verifying statements therein as to the amount of her income (para. 1060).

(85) The Board's existing power to require a taxpayer to produce business records for inspection should be extended to cover records of his own or his wife's private affairs. Where the taxpayer is a private company the power should extend to any document relating to its affairs in the possession or power of any director (para. 1062).

(86) The Inland Revenue should have statutory power to call for returns of fees paid by traders (and other persons regularly making such payments) for artistic, etc., services (para. 1066).

(87) An expert committee should review the provisions imposing penalties for tax offences and should recommend measures which remove confusion and overlapping and bring them up to date (para. 1070 (1)).

(88) Actions to recover tax penalties should survive the death of the alleged offender in Scotland and Northern Ireland as they now do in England and Wales (para. 1071 (1)).

(89) Back duty assessments should be capable of being made on the personal representatives of a deceased taxpayer to cover six years back from the date of death (and not merely six years from the date of making the assessments) so long as they are made within three years after the year in which death occurs (para. 1071 (2)).

#### Codification (Chapter 34)

(90) If any substantial change in a particular branch of tax law is projected the opportunity should, if possible, be taken of codifying the surviving parts of the old law. For the future there should be a regular consolidation every ten years, beginning with 1962; but attention should be given to evolving a system which would allow additions to be incorporated in the consolidating statute without altering the numbering of the basic sections. Attempts should be made to introduce greater clarity and concision into the drafting of income tax legislation (para. 1089).

#### RESERVATIONS

##### Taxation of Corporate Profits

Mr. W. F. Crick suggests that the present levy of income tax and profits tax on corporate profits should be replaced by a single-tier tax, the rate of which could be varied independently of the tax on personal incomes.

Miss Vera Anstey associates herself with this reservation, but not with Mr. Crick's further dissent from the majority recommendation for tax exemption for some oversea profits.

##### Current Pension Schemes—Commutation

Mr. J. Millard Tucker dissents from the proposal to make liable to tax any excess over £10,000 of a capital sum taken in commutation of part of pension by a presently serving employee. Mr. W. S. Carrington agrees with him on this point.

Mr. Tucker does not object to the limit of £10,000 where a person entered a pension scheme after February, 1954, or of £2,000 in respect of future entrants.

##### Capital Cost of Lease

Mr. Tucker—who is supported by Mr. W. S. Carrington—considers that the owner of a business who incurs a

capital cost in acquiring leasehold premises should be entitled to an annual depreciation allowance when computing his taxable trading profits.

##### "Badges of Trade"

Mr. Tucker is afraid that misunderstanding, and possibly wrong decisions, may result from literal application of some of the tests proposed for determining whether a particular transaction should be treated as a taxable trading transaction.

Mr. Carrington is in partial agreement.

##### Charities

Mr. Sylvester Gates and Mr. John R. Hicks recommend that charities should receive total exemption from tax only up to a fixed rate, say, 5s. in the pound, and then should pay tax at half the amount by which the standard rate exceeds 5s.

##### Stock Valuation

Mr. L. S. Sutherland and Professor John R. Hicks dissent from the suggestion to permit the L.I.F.O. method of valuation, on the ground that the net effect would be to postpone taxes during inflation and thus stimulate the price rise.

## Minority Recommendations

**The following is a summary of the principal recommendations of the Minority together with those of the Majority's recommendations endorsed by the Minority and those from which it dissents.\***

#### Capital Gains

(1) Capital gains of individuals should be subjected to income tax, but not to sur-tax (para. 62). Capital gains of companies should be charged to corporation profits tax (para. 107).

(2) The tax should be charged on the net realised gains of the year, after deduction of net realised losses. When net realised losses exceed net gains, the difference should be carried forward against future gains (para. 65).

(3) No distinction is to be made between short- and long-term gains. The transfer of property through inheritance or *inter vivos* gifts or settlements should reckon as realisation, the property being valued for the purpose by the same rules as are applicable to stamp duties (paras. 63, 64).

(4) Net unabsorbed capital losses

shown by an estate at probate valuation should be credited against estate duty liabilities (para. 67).

(5) Net receipts from the sale of terminable rights (after deduction of any sum that may have been paid by the recipient for the acquisition of those rights) which are now exempt from tax should be subjected to income tax in an analogous manner to capital gains (para. 71).

(6) Gains arising on the sale of owner-occupied houses, to the extent of one residence for each taxpayer, should be exempt from the capital gains tax (para. 68).

(7) For the purpose of the first introduction of the tax assets purchased before the appointed day should, in the case of securities quoted on the Stock Exchange, be deemed to have been purchased at the middle price ruling on the appointed day; in the case of other assets, the actual cost of acquisition should reckon as the purchase price, but the taxable gain should be reduced to that fraction of the total gain which the period between the appointed day and the date of realisation bears to the total period of ownership (para. 69).

\*Paragraph references are to the Memorandum of Dissent. References to the Report are indicated by square brackets.

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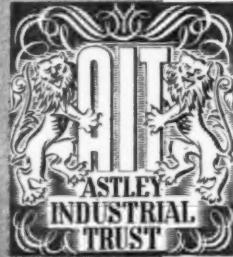
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(8) For an initial period the tax should be limited to gains arising from the sale of businesses, securities of all kinds and real property, and there should be an exemption limit determined by administrative considerations (para. 70).

#### Corporate Taxation

(9) Company profits should be subject only to one tax—the corporation profits tax. No income tax should be levied on companies as such but companies should be asked to act as agents to the Revenue and deduct income tax at the ruling standard rate from all interest and dividends paid out (para. 92).

(10) Simultaneously with the introduction of the capital gains tax the existing discrimination between distributed and undistributed profits should be abolished and companies should be charged at the uniform rate to corporation profits tax on the whole of their profits (para. 106).

(11) Income tax deducted at source on the interest and dividends, etc., received by corporations should be credited against the corporation profits tax liability (para. 106).

(12) 33½ per cent. should be regarded as the appropriate rate for the tax on corporate profits at the present level of taxation, and in the light of the charge to be imposed on capital gains. The tax should initially be charged at 40 per cent., which is the equivalent rate of the present taxes falling on corporations, but the rate should subsequently be reduced as on offset to the revenue from the newly imposed tax on capital gains until it is reduced to 33½ per cent. (paras. 108-109).

#### Earned Income Relief

(13) Earned income relief should be available to incomes assessed under Schedule E without any upper income limit (para. 129 (i)).

(14) In the case of individuals and partnerships assessed under Case II of Schedule D earned income relief should be available without any upper limit but only to taxpayers who are at their own option assessed on their profits under the Schedule E expenses rule (para. 129 (ii)).

(15) In the case of unincorporated businesses assessed under Case I of Schedule D, earned income relief should be available up to the limits recommended in paragraph 220 of the Second Report of the Royal Commission but only to taxpayers who are at their own option assessed on their profits under the Schedule E expenses rule (para. 129 (iii)).

(16) Taxpayers with incomes assessed under Cases I and II of Schedule D,

exercising the option to be assessed under the Schedule E expenses rule, should not be able to claim such expenses as are (a) not of a capital nature and (b) not directly and inevitably involved in earning the profits of the year (para. 129 (iv)).

#### Relief for Losses

(17) Apart from financial concerns, to which the provisions of the Income Tax Act, 1952, Section 342 (4), should continue to apply, losses in future should be offset against future income from the same source (para. 142).

(18) Until the introduction of the capital gains tax financial concerns which are taxed on their capital gains as dealers in securities should be able to offset losses arising out of security transactions only against future gains from the same source (para. 147).

(19) Companies which are able to deduct, as expenses, payments made to subsidiary companies under the provisions of the Finance Act, 1953, Section 20, should not be able to claim such deductions in cases where the payments are made to a subsidiary acquired by the parent company in the knowledge that it was incurring losses (para. 146).

#### Capital Allowances

(20) Simultaneously with the introduction of a tax on the receipts from the sale of terminable rights (para. 71) we recommend the introduction of a capital allowance (subject to a balancing charge) for the cost of mineral rights and for the premiums paid on leases (para. 149).

(21) The treatment of capital allowances given to agriculture should be assimilated to the treatment of capital allowances generally (paragraph 151).

#### Stock Valuation

(22) Valuation by the "first-in-first-out" method should be the general rule for valuing stocks in the ascertainment of trading profits for tax purposes. Departures from this rule should be granted only (a) in cases where the actual cost incurred in connection with any particular item sold can be directly ascertained; (b) with the consent of the Revenue authorities in those cases where a business cannot reasonably be expected to keep the records necessary for the ascertainment of stocks by this method and a simpler method of stock valuation is regarded as adequate; (c) when current market value is below actual cost, valuation on the basis of market value should be permitted at the option of the taxpayer (paras. 158, 160).

#### Double Taxation Relief

(23) Relief given to individuals with respect to foreign taxation should be

limited to the tax so imposed on individuals and relief given to companies should be limited to the corresponding taxes imposed on companies (para. 172).

#### Expense Allowances and Benefits in Kind

(24) The Board of Inland Revenue should publish annually in their Report figures relating to the operation of the 1948 legislation showing (i) the number of cases in which assessments were raised as a result of the operation of the Act; (ii) the total amount of expenses claimed in these cases; (iii) the amount of such expenses that were disallowed (para. 189).

#### Superannuation

(25) Relief should be extended on the lines recommended by the second Tucker Committee with the exception of the self-employed and controlling directors. Taxpayers assessed under Case II of Schedule D should be permitted through their professional associations to organise and administer superannuation funds on analogous lines to those set up under the Finance Act, 1921, Section 32 (para. 196).

(26) Lump-sum benefits should be abolished in the case of all future entrants to superannuation schemes without prejudice to existing members of such schemes (para. 199).

#### Covenants

(27) A review ought to be undertaken of the present system of inheritance taxes in connection with the question of income and property transfers generally; and the question of the tax treatment of voluntary transfers of income by means of covenants should form part of such an inquiry (para. 208).

(28) As an interim measure the amount of covenanted income the transfer of which is recognised for the purpose of sur-tax assessment of the covenantor, should be limited to £500 a year in the case of any one beneficiary (para. 210).

#### Charities

(29) There should be a more restrictive definition of a charity for tax purposes and charities should only receive tax exemption up to a certain rate of income tax and only at half the rate for any excess (para. 211).

#### Schedule A Charge on Dwelling-houses

(30) The charge should continue to be based on the rent for which a property is actually let or the amount for which it is worth to be let by the year if it is not so let. The amount for "which it is worth to be let by the year" should be interpreted as the amount of the "standard rent" for houses which have acquired a

"standard rent" under the Rent Control Acts prior to August 30, 1954, and for other houses it should be based on the current letting value. In order to prevent hardship the adjustment of the Schedule A charge on owner-occupiers from the pre-war to the current value should proceed in gradual instalments, the increases not exceeding 10 per cent. of the existing charge in any one year (para. 216).

#### MAJORITY RECOMMENDATIONS

The following principal recommendations of the Majority are endorsed by the Minority:

##### (A) RECOMMENDATIONS REFERRED TO IN THE MEMORANDUM

###### Capital Allowances

(31) Capital allowances should be given for commercial buildings; surpluses realised on the sale of assets qualifying for capital allowances should be subject to tax except in the case of ships built before 1946; cutting and tunnelling work should qualify for annual and balancing allowances (paras. 149, 151).

###### Personal expenses

(32) Directors or employees of charitable bodies or non-trading concerns should be subject to the special legislation dating from 1948 (para. 188).

###### Compensation for Loss of Office, etc.

(33) Payment for compensation for loss of office should be taxable. The whole of such payments, as well as ex gratia payments on termination of service should be charged (paras. 200-201).

###### Covenants

(34) Covenants for the purpose of discretionary trusts should be rendered ineffective for tax purposes (para. 209).

(35) The maker of a covenant in favour of a family member should be required to produce each year formal declarations by himself and the beneficiary as to the absence of any agreement or understanding for the return, direct or indirect, of any part of the benefit. This should be extended to all relatives and the declaration required should be on oath (para. 209).

##### (B) RECOMMENDATIONS NOT PREVIOUSLY REFERRED TO

(36) Relief for fluctuating incomes and consequent repeal of special provisions concerning authors [paras. 203, 207].

(37) A director should be entitled to the same benefit as an employee in respect of living accommodation [para. 219 (2)].

(38) Special relief for travelling costs occasioned by war circumstances should be terminated [para. 237].

(39) In the case of multiple employment, relief should be given for travelling between the principal place of work and the place where the subsidiary calling is exercised [para. 241].

(40) Post-cessation receipts should be taxable [paras. 262, 264].

(41) Rules concerning residence, ordinary residence and foreign employment should be rationalised and codified [paras. 293-307].

(42) Bad debts recoveries should be taxable [para. 265].

(43) Payments for the hire or use of an asset should be deductible in computing profits and taxed in the hands of the recipient [para. 404].

(44) Surpluses of corporations engaged in mutual trading should be taxable [para. 593].

(45) The B.B.C. should be exempt from income tax and profits on its trading profit [para. 601].

(46) Schedule D tax should be assessed on a current year basis for companies under Cases I and II and for all taxpayers under Cases IV and V [paras. 776, 789].

(47) Nationalised and public utility undertakings should be taxed on the same basis as other concerns [paras. 567, 569].

(48) Industrial and provident societies and building societies should be taxed only on the retained balance of profits [paras. 573, 577].

(49) Bonus debentures should be surtaxable [para. 800].

(50) Dividends paid out of capital profits should be taxable [para. 808].

(51) Recommendations concerning Schedules A and B with the exception of the suggested basis of charge for the owner-occupier [paras. 838-926]; Administration [paras. 948-1012]; Tax Avoidance [paras. 1029-1047] and Tax Evasion [paras. 1052-1089].

#### DISSENTS

The Minority dissents from the following principal recommendations in the Report:

(52) Immediate abolition of the discriminatory tax on distributed profits (para. 105).

(53) Amendment of the Schedule E expenses rule (para. 122).

(54) Statutory disavowal of Lord Davey's test (para. 113).

(55) Relief for unexhausted capital allowances and investment allowances

against other income for any future year (para. 145).

(56) Permission to use the L.I.F.O. method of stock valuation for tax purposes (para. 161).

(47) Extension of double taxation relief to provincial, canton, and municipal taxes irrespective of existing limitations (para. 171).

(58) Relief from foreign "indirect tax" to be given to a minority shareholder irrespective of existing limitations (para. 170).

(59) Introduction of a special category of "overseas trade corporation" to be exempt from tax (para. 179).

(60) Abolition of special rule concerning expenses and benefits in kind for non-controlling directors receiving less than £2,000 a year (para. 185).

(61) Abandonment of the attempt to take into account "home savings" (para. 187).

## Taxation Notes

### Sur-tax and Interest on Estate Duty

Although tax is not deductible from interest paid on estate duty, no relief is given for income tax purposes. Presumably it is considered that two per cent. is equivalent to a net payment.

For sur-tax, the interest paid may be treated as a net payment and the gross equivalent deducted in calculating the total income of the individual on whom the interest falls. Where estate duty is being paid by instalments, the interest is regarded as deductible for sur-tax on its due dates. Interest paid in one sum, however, is regarded as accruing from day to day and deducted in the period(s) of accrual.

### Profits Tax—Investment Income

The decision of the Court of Appeal in *The Butterley Co., Ltd. v. C.I.R.* [1955] 16 T.R. 69, that the 4th Schedule (paragraph 7), Finance Act, 1937, as amended by Section 32, Finance Act, 1947 (requiring investment income to be included in profits)

cannot extend the scope of Section 19 (1), Finance Act, 1937 (which imposes the tax on trades and businesses) seems to mean that investment income cannot be included in profits for profits tax purposes unless it would have to be included in the trading profits but for the deduction of tax at source. Pending the decision of the House of Lords, it is suggested that all computations be agreed provisionally on the result of that case, reserving the right to exclude investment income if the House of Lords uphold the decision.

#### **Capital Allowances for Agricultural Expenditure**

A welcome addition to the series of notes issued by the Inland Revenue is that now available on Allowances for Capital Expenditure on Agricultural or Forestry Buildings and Works. It deals with the annual allowances and with the investment allowance. Attention is drawn to the fact that certain capital expenditure on replacement of farmhouses, etc., is allowable in a maintenance claim, yet can attract investment allowance. We understand that the booklet is being sent by the Inland Revenue to all practising accountants.

#### **Estate Duty on Business Assets**

A booklet on the effect of the Finance Act, 1954, has been published by the Association of Certified and Corporate Accountants (price 3s. 6d. net). In forty-one pages, we find, as we have learned to expect from the Technical Research Committee of the Association, an exceedingly useful and informative exposition of the effect of the new legislation on Sections 46 and 55 of the Finance Act, 1940. As the booklet is itself an explanation of the complicated provisions of the Act, any attempt to review it in detail would be but a parody. It is enough to say that anyone reading it will not be disappointed in either the explanations or the illustrations.

#### **Double Taxation—Pakistan**

An agreement between Pakistan and the United Kingdom providing relief for the double taxation of income was signed last month.

The agreement, which is dated to take effect from April 1, 1955, follows the general lines of similar agreements concluded by the United Kingdom with other Commonwealth and foreign countries since the war. It will be published shortly but will require the approval of the House of Commons before it can take effect here.

#### **Double Taxation—Isle of Man**

The terms of a double taxation agreement between the Isle of Man and the United Kingdom are contained in the Schedule to a draft Order in Council published last month. In the United Kingdom the arrangement requires the approval of Parliament.

Under the arrangement, certain classes of income derived from one country by a resident of the other country will (subject to certain conditions) be exempt from tax in the former country: these classes are shipping and air transport profits, certain trading profits not arising through a "permanent establishment" and earnings of temporary business visitors. Government salaries and pensions are normally taxed by the paying Government only.

Dividends and debenture interest payable by companies will not be affected by the arrangement. The system of unilateral relief by the United Kingdom which operates at present (Section 348 and Seventeenth Schedule, Income Tax Act, 1952), will continue to apply to them. On other income which continues to be taxable in both countries, credit is to be given by the country of the taxpayer's residence for the tax payable in the country of origin of the income.

Provision is included for the exchange of information between the taxation authorities of the two countries.

The arrangement is expressed to take effect for the fiscal year 1955-56.

#### **Avoidance of Double Taxation**

A booklet of 35 pages has been published by the *International Chamber of Commerce*. The claim of the country of residence is compared with that of the country where the income arises. The conclusion reached is that the country of origin should

have the sole right to tax the income.

An appendix shows the tax treatment of foreign income in 64 countries and territories.

#### **Taxation of Mining**

The East Africa Royal Commission says in its report that insufficient attention has been paid to the necessity of taking into account, in the calculation of depreciation and development allowances and the like, that mines are wasting assets. It continues:

In mining such allowances must be much more generous than in industry. In particular we recommend that the taxation of private companies engaged in mining operations should be reconsidered in order to make possible the maximum concessions to them. The present rates of tax definitely retard mining development and make it extremely difficult to build up reserves or to raise new capital.

#### **Clitas**

Release No. 25 dated May 20, 1955, of *Current Law Income Tax Acts Service* brings to subscribers the relevant portions of the Finance Act, 1955, together with those provisions of the Income Tax Acts which have been amended or otherwise affected by the Finance Act, 1955.

#### **Profits Taxation in Ireland**

A submission by the *Association of Chambers of Commerce of Ireland* and *The Federated Union of Employers* to the Industrial Taxation Committee has been prepared by Mr. F. G. Hall, PH.D., LITT.D., F.S.A.A., as economic consultant. The introduction deals with the burden of Government expenditure, stated to account for almost 40 per cent. of the total national income. Irish exports have not kept pace with the increase shown by other Western European States. In the five years 1948 to 1952, taking 1938 price levels, the net amount of savings available for productive investment represented about one-quarter of the corresponding pre-war figure. Profits earned by Irish commercial companies have always been at a low level and have not kept pace with the decrease in the purchasing power of money. Increases in wages and salaries and

expenses have come out of profits, and so has increased taxation.

In a discussion of inflation, Dr. Hall points out that as there is no allowance for taxation in respect of depreciation based on replacement cost, the inflationary problem will become more serious as commercial assets fall due for replacement. Wear and tear rates remain as they were fixed in 1918: detailed comparisons are made with the increases in rates, including the initial and investment allowances, in Great Britain. The *per capita* expenditure in Ireland on new machinery and equipment is about half that of Great Britain and a mere fraction of that of the United States; comparisons are also made with other countries. The strict application of the rules relating to obsolescence allowances is criticised. In respect of buildings only a mills, factories, etc., allowance is available in the Republic. Remedies suggested are revalorisation of existing assets

on replacement value or by reference to index numbers, an additional allowance to cover the excess cost of replacement or an investment allowance.

The disallowance of trade expenses comes in for criticism and it is suggested that the onus of proof be shifted to the Revenue Commissioners. Items mentioned include subscriptions; repairs, renewals and improvements; removal expenses; law costs; cost of tax appeals; premiums on leases; costs of obtaining loans and capital; and development expenses.

A plea is made for doing away with the six-year limit on carrying forward losses and for the right to carry losses back.

Corporation profits tax is criticised and it is suggested it should be abolished; the yield is small. The impact on directors' remuneration is discussed. It is suggested that in any event undistributed profits should be

exempted.

The continual exemption of co-operative societies has aided their great expansion: Dr. Hall argues that they should be taxed. Provision for retirement should be possible for self-employed persons. The Commissioners are criticised for their use of the provisions for collection of employees' income tax arrears through employers. Codification of the Acts is much overdue, with simplification. The use by the Commissioner of decisions of the British courts comes in for comment.

The pamphlet ends with a call for an advisory committee representative of the commercial community and including members of the legal and accountancy professions, to advise and assist the Revenue Commissioners, to keep them informed on current commercial practice and trends, and to serve as a liaison between the Revenue and the commercial world.

## Recent Tax Cases

By W. B. COWCHER, O.B.E., B.LITT.

### Income Tax

*Settlement on infant child—Daughter of settlor's divorced wife by a previous marriage—Whether a stepchild—Finance Act, 1936, Section 21.*

**C.I.R. v. Russell** (Court of Session, March 8, 1955, T.R. 103) was an infant settlement case of unusual character. In May, 1950, respondent executed a deed by which he settled certain funds for the purpose of paying the income thereof to the infant daughter of the respondent's wife by her earlier marriage. Her first husband had divorced her in 1937 and he was still alive. In 1950-51 and 1951-52 respondent was assessed for sur-tax on the basis that by virtue of Section 21 of the Finance Act, 1936, the income of the settlement fell to be treated as his income. This was correct if the child in question was "a child of the settlor" within the extended meaning of the term given to it by sub-Section (9), whereby it included "a stepchild, an adopted child, and an illegitimate child."

It was contended for respondent that the term "stepchild" did not include a child whose real father was still alive and the Special Commissioners had upheld this contention upon the ground that it was not a natural use of the term "stepchild" to include in it such a child. A unanimous Court reversed their decision. The Lord President (Clyde), giving the only full judgment, said that whilst it appeared likely that the death of the real parent was originally essential to bring a child within the term it was clear to him that this qualification was obsolete. The great *Oxford English Dictionary* was referred to as defining a stepson or stepdaughter as a son or daughter by a former marriage of the husband or the wife with no indication of any requirement of the death of the real parent. The *Shorter Oxford English Dictionary* was also referred to although this, it would seem, was scarcely a separate authority. The Lord President drew attention to the anomalous results which the construction would lead to. It

seemed to him to be surprising that the income of the settlement should be treated as the income of the settlor only after a third party—the real father—should happen to die; and, to the contention that it would be anomalous if the Revenue contention were correct that more than one settlor could be taxed in respect of the same child, he replied that this could happen in the case of an adopted child and he could see no reason why it should not happen in the case of a stepchild.

### Income Tax

*Balancing charge—Sale of business to Crown—Whether business permanently discontinued—Whether Crown a "person" succeeding—Sale as a going concern—Excess of sale consideration over written-down value—Whether balancing charge feasible—Income Tax Act, 1918, Schedule D, Cases I and II, Rule 11 (2)—Finance Act, 1926, Sections 31, 32—Income Tax Act, 1945, Sections 17, 57 (2), Schedule D Cases I and II, Rule 6—Income Tax Act, 1952, Section 64.*

**Boorland v. Madras Electric Supply Corporation Ltd.** (House of Lords, March 11, 1955, T.R. 57) was the subject of extended notes in our issues of

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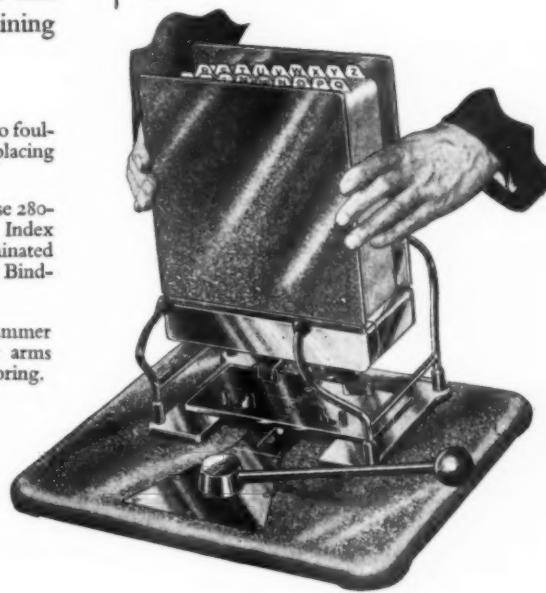
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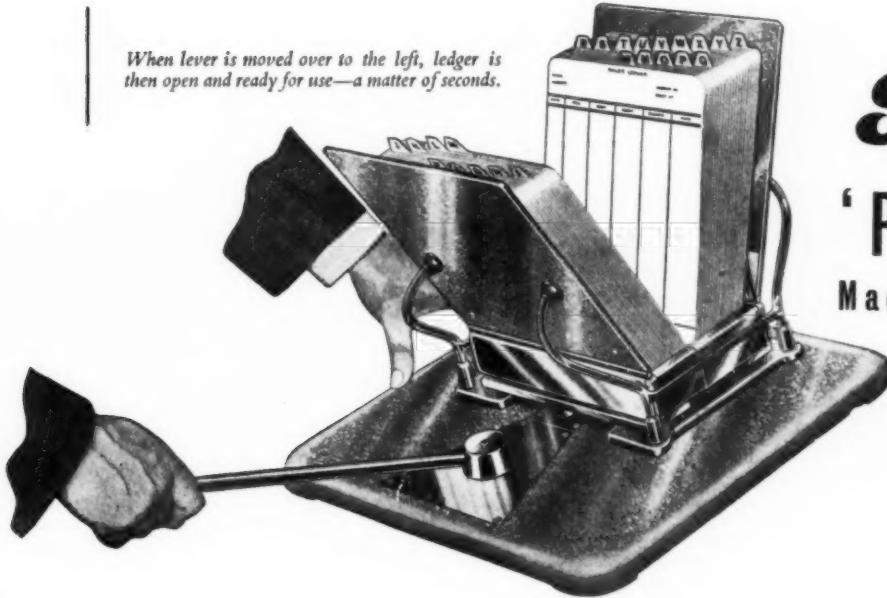
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October, 1953, at page 330 and April, 1954, at page 144; and, as the point determining the issue was a clear and simple one of principle, only a brief summary of the facts would seem to be called for here. In August, 1947, the Government of Madras—conceded to be the Crown for the purposes of the case—had exercised certain options and had purchased the company's electricity undertaking, taking it over as a going concern. The consideration, when expressed in sterling, amounted to £1,611,437 and, assuming the Revenue's contention to be upheld, a balancing charge for the year 1947-8 was feasible under Section 17 of the Income Tax Act, 1945, the amount thereof being "£850,000 or thereabouts" although in the Court of Appeal it was stated by counsel for the company that, including two associated companies which would be affected, the total tax involved was just under £1 million. Whether this not inconsiderable amount of tax was payable or not was agreed to be dependent upon whether the Crown was a "person" within the meaning of the word as used in Rule 11 (2) of Cases I and II of Schedule D, Income Tax Act, 1918. The Special Commissioners had decided in favour of the company, holding that it was not; but their decision had been reversed by Upjohn, J., who had been upheld unanimously in the Court of Appeal. By a unanimous vote this decision was affirmed in the House of Lords. But although all nine judges arrived ultimately at the same conclusion, there was considerable diversity of opinion amongst them; and this would seem to be particularly so in the case of the speeches in the House of Lords.

Of the five judges who made speeches there, the two English judges, Lords Oaksey and Tucker, did not consider it incumbent upon them to determine—in the words of Lord Oaksey—

whether the Crown's admitted immunity from taxation depends upon the construction of the statute or arises from the prerogative in some other way,

and Lord Tucker commenced his short speech with the words:

I am not persuaded that the decision of this appeal calls for an historical investigation of the true nature of the Royal Prerogative or its precise impact upon Parliamentary legislation.

It was otherwise with their Lordships from Scotland and Northern Ireland, who considered it necessary to examine and express their individual opinions upon the difficult and important con-

stitutional problem presented in argument by both sides. In the end, it would seem that all five judges came substantially to the same conclusion that Rule 11(2) was not a charging provision and any opinion on the nature of the Crown's immunity from taxation did not preclude them from holding that it was necessary in order to avoid absurd results for the word "person" in the Rule to include the Crown. This note might stop here; but the present is a time when owing to a variety of reasons important questions on the nature and extent of the Crown's immunity from taxation are apt to arise, often in peculiar circumstances. It is for this reason that the speeches of Lords Macdermott, Reid and Keith in so far as they dealt with this constitutional problem are of very considerable importance although, in view of their ultimate conclusions, their opinions upon it were in a sense *obiter*.

Lord Macdermott said it was contended for the company that in the charging provisions of paragraph 1 of Schedule D the word "person" on its true construction did not include the Crown and that there was nothing in Rule 11 (2) to give the same word a different meaning. Against this, it was contended for the Revenue first that the word "person" in paragraph 1 did include the Crown and that Rule 11 (2) used the word in the same sense. Secondly, it was submitted that even if this was not so, the language and purpose of Rule 11 (2) justified a wider interpretation which would include the Crown. Lord Reid said that, as regards its first contention, the Revenue's view was that as a matter of construction the Crown was within the charging provisions but if assessed could plead the prerogative and decline to pay, whilst for the company it was said that the prerogative operated at an earlier stage and that unless the Act bound the Crown expressly or by necessary implication it was never within the scope of any of the provisions which might prejudice its interests; and that the word "person" in the Income Tax Acts must be held to mean "person other than the Crown." Reverting to Lord Macdermott's speech, he said in regard to certain cases cited in the Court of Appeal that in those cases the distinction between ascribing Crown immunity to the prerogative and treating it as a matter of statutory construction was not the subject of dispute. On this particular point, he considered the company to be right. Whatever ideas might once have prevailed on the subject it was, he said,

today impossible to uphold the view that the Crown could find in the prerogative an immunity from tax if the statute in question according to its true construction included the Crown amongst those taxed. The appropriate rule as he understood it was that in an Act of Parliament general words shall not bind the Crown to its prejudice unless by express provision or necessary implication. As regards Rule 11 (2), it was not intended to impose a tax or to do anything prejudicial to any of the persons to whom it referred. It might work now one way and now another; and he was unable to see how its provisions could prejudice the Crown so as to justify its exclusion from the word "person" in the Rule. Designedly comprehensive, he said, it catered for a situation which was there to be met whether or not it was the Crown that succeeded to, or was succeeded in, the trade.

Lord Reid said that for the Revenue it was argued that the Crown was in law a "person" and that throughout the Income Tax Acts this word included the Crown, whilst for the company it was argued that this was never the case. He held both arguments to be unsound. The Revenue's argument was, he said, novel and he did not think that it had ever been even suggested, at least since 1688, that if an Act in its terms and on its true construction applied to the Crown its operation could be prevented by the Royal Prerogative. It was, he said, not a matter of the King preventing the operation of an Act which extended to the Crown but of the scope of provisions which prejudiced the Crown being so limited that they never extended to the Crown.

He referred to the case of *Bank voor Handel en Scheepvaart v. Custodian of Enemy Property* (1954, A.C. 584; 33 A.T.C. 102; 35 T.C. 311), because a passage in his speech in that case was said to assist the Revenue argument. There, the sole question was whether the Custodian of Enemy Property, who had paid income tax on a sum which had come into his hands, had been liable to do so. He had agreed with the majority that he was not and at one point he had said:

Undoubtedly he would have had to pay if the Crown had waived its immunity and if he had been directed to pay by the Board of Trade

and it had been argued that one could not waive an immunity unless one was first liable; and that it was inconsistent with the view that the charging provisions of the Acts did not apply at all to

Crown income. There were, as a matter of fact, two passages in Lord Reid's speech in that case to the same effect, and the earlier one was quoted in the present writer's note on that case with a comment preceded by the cautionary words "If Lord Reid was correct"—see our issue of August, 1954, at page 312—and they illustrate a danger to which even the best of judges is exposed. As to the apparent inconsistency, he said, "I am not the best interpreter of what I said," and after reading his explanation the reader may be inclined to agree with him on this. Nevertheless, he held that as between the opposing arguments a charging provision which on the face of it would or could impose a charge on the Crown was inapplicable to it unless the Crown was bound either expressly or by necessary implication. In his final words he said that although there was a presumption that the same word received the same meaning in closely related Sections there were numerous cases where that presumption had to give way to other considerations; and it could not prevail in the case as it would be an utterly unreasonable result if the amount of tax payable by the seller could depend on the tax liability of the purchaser. There was, he said, nothing in Rule 11 (2) or in any other part of the Act to indicate any intention that it should.

Lord Keith of Avonholm said that whilst it was common ground that the prerogative operated to prevent the Crown being taxed under the statute, the dispute was on the question how it did it. The contention of the company seemed to him to be indistinguishable from one that it was a principle of statutory construction that words used did not include the Crown or Crown property unless the contrary was expressed or implied. If so, he held, no question of the prerogative arose and all the previous decisions were unexplained in their references to and reliance on the prerogative. The true explanation was, he said, easily understandable on historical and legal grounds and was that words in a statute capable of applying to the Crown may be over-ridden by the exercise of the prerogative. The conception of the prerogative, in his view, was something that stood outside of the statute, on which the Crown could rely to control the operation of the statute so far as it prejudiced the Crown. On this footing he thought his opinion would be adverse to the company's contention, but he said that he found a more limited ground of decision in the language of Rule 11 (2) itself. Although the Crown

escaped taxation under the charging provision and was not directly affected by the Rule it was, he said, bound by the assessment and other provisions of the Statute which fixed the basis of taxation and must recognise the conditions on which Parliament said it should be levied. If in the Rule "person" meant "person other than the Crown," the basis of assessment in the cases of purchasers from or sellers to the Crown would be disrupted, and no reason for this had been or could be suggested. To give the Rule a reasonable and intelligible meaning "person" must, if possible, include the Crown, and there was nothing in the Act to exclude such a reading.

The final result of the case in so far as the matter was a question of law was unquestionably in accordance with commonsense. The factual result was probably otherwise. The 1945 scheme of balancing charges and balancing allowances assumes that the pound sterling is something definite and invariable in value although its authors in their individual personal capacities would be painfully aware that it is nothing of the sort. It is not necessary to impute any ill motive: but, during a period of persistent creeping inflation, the seeming equity of the plan was derisory. The greater the fall in the purchasing power of the pound—the increase in "the cost of living"—the greater will be the Revenue's profit from the 1945 Act scheme, now contained in Part X of the 1952 Act. It is quite possible that the balancing charge to which the Madras company has become liable is wholly attributable to a "profit" which has no basis in reality.

#### Income Tax

*Discovery — Report of omissions to Inspector — Additional assessments — Whether Inspector had made discovery — Income Tax Act, 1952, Section 41.*

**McLuskey's Trustees v. C.I.R.** (Court of Session, March 15, 1955, T.R. 111) arose out of circumstances of common every-day occurrence. Daniel McLuskey had for some years traded as a scrap-metal and rubber merchant and had employed an accountant to prepare and submit accounts of the business to the Inspector and to prepare his income tax returns. In the last year of McLuskey's life—the date of his death is not stated but was apparently in 1952—his accountant had discovered that he possessed a source of income which had not been disclosed to him (the accountant); and,

as the information supplied by him had been the basis of the assessments made on McLuskey, he so informed the Inspector and said that he had told McLuskey that this new source must be put through the books. After McLuskey's death, his solicitors informed the accountant that there was a bank account with a large credit balance amounting to £11,000 which had never been disclosed either to the latter or to the Inland Revenue. On October 29, 1952, the accountant sent the accounts of the business for the period from November 1, 1951, to the date of death to the Inspector, but in lieu of his usual certificate informed the latter that deceased's solicitors had replied to his request for perusal of the pass-book relating to the undisclosed bank account by saying that all McLuskey's business transactions had been recorded in the business bank book and "therefore, the private account has no bearing on the matter."

In these circumstances and in view of the information the Inspector had obtained, additional assessments had been made for the years 1946-47 to 1951-52; and on appeal the General Commissioners had held that the additional assessments had been competently made. The contention before the Court was that the Inspector had relied on hearsay evidence and had no proper information to justify the inference that the large sum in the undisclosed bank account represented a liability to tax during the said years. It was contended that positive information was necessary to constitute "discovery" within Section 41 of the 1952 Act and that reliance upon suspicion was not enough. It had also been maintained that steps should have been taken to recover from the bank the actual entries in the bank's books showing the undisclosed credit of £11,000. A unanimous Court found that the General Commissioners' conclusion was correct.

The Lord President (Clyde), giving the only judgment, said it was not necessary to justify the steps which had been taken in the case or for any such course to have been adopted. (In the absence of the stated Case the relevance of these remarks is not clear.) What was necessary was not legal proof but "discovery", a term defined in previous cases. In *R. v. Commissioners of Taxes for St. Giles and St. George, Bloomsbury*, (1915, 3 K.B. 768; 7 T.C. 78), Lord Reading had paraphrased the word "discover" as:

If he honestly comes to the conclusion on the information in his possession,

and that had, he said, been accepted in *Earl Beatty v. C.I.R.* (1953, 32 A.T.C. 345; 35 T.C. 30). On the information before the Court he had no hesitation in saying that there was sufficient to hold that there had been a "discovery" within Section 41. The Commissioners had found as a fact that commissions received by McLuskey in the years prior to October 31, 1951, had not been recorded in his business books or in the accounts for income tax purposes, and the Lord President said, in concluding the substantive part of his judgment:

What certainly strikes me as impressive is that, when challenged on this question, the solicitors, who had ample opportunity to produce the bank account alleged to contain these commissions, had they so desired, took up the position that the private account had no bearing on the matter at all.

#### Estate Duty

*Interest in expectancy—Dispositions to sons successively during life and failing issue—Disentailing and re-settlement by surviving son—Whether interest passed on latter's death—Wills Act, 1837, Section 29—Finance Act, 1894, Section 7(6).*

*In re Williams-Wynn* (C.A. March 16, 1955, T.R. 113) arose out of the will of Mrs. Marian Rowley-Conwy. She had died in 1911 and her three sons were all then alive. By her will she disposed of the residue of her considerable estate to trustees in these terms:

and to the use of my eldest son Maurice during his life and failing his issue, to my second son Rafe during his life and failing his issue to my third son Geoffrey.

There were no words of limitation as regards Geoffrey. Maurice had died in 1913 without issue. Rafe had died, also without issue, in 1951. Geoffrey had married and had had issue but was killed in action in 1915. It was contended by the Revenue that Maurice and Rafe took only life interests, so that on the death of Rafe in 1951 the settled assets passed to the representatives of the third son, Geoffrey: and that estate duty was payable, on the death of Geoffrey, in respect of the interest in expectancy of which he died possessed in 1915. For the trustees, it was contended that the interests of Maurice and Rafe were entailed interests and that, when in the year 1932 Rafe disentailed any interest he took and he and the widow of Geoffrey as the latter's legal representative executed a re-settlement,

the effect was that no interest ever passed upon the death of Rafe to the estate of Geoffrey and that upon this footing any claim of the Crown to death duties under Section 7(6) of the Finance Act, 1894, would fail. The Court, Evershed, M.R., giving the only judgment, was unanimous in holding that as a consequence of the change effected by Section 29 of the Wills Act, 1837, the Crown's contention was correct, the case of *In re Thomas* [1921] 1 Ch. 306 being distinguished. The words "failing his issue" could not (Evershed, M.R., said), be distinguished in effect from "dying without issue," and Harman, J., had rightly concluded the case.

#### Profits Tax

*Reduction of company's capital—Petition to Court for confirmation—Share capital reduced by returning to shareholders 5s. per share of £1—Authorised capital increased to previous amount by creation of new shares of 15s. denomination—Whether petition should be dismissed on ground that transaction was one of tax avoidance—Finance Act, 1947, Section 36(1)—Companies Act, 1948, Section 67.*

*In re David Bell Ltd.* (Court of Session, February 22, 1952, T.R. 101) is included in the current *Taxation Reports* with an editorial note stating that this is owing to its importance in over-ruling the decision in *In re A. & D. Fraser Ltd.* (30 A.T.C. 77; 1951 T.R. 73). There, by a majority, the Court of Session had refused a petition for confirmation of a reduction in capital on the grounds that the Court would not allow itself to be used as an instrument for tax avoidance. Its refusal was the subject of a critical note in our issue of July, 1951, at page 274. In the present case, the Reporter to the Court pointed out that the company could have made a cash distribution of £30,000 to shareholders without any reduction of capital, as the amount at credit of profit and loss largely exceeded that sum. This course would, however, have involved increased liability to profits tax and might have involved the shareholders in sur-tax liability. In view, however, of the subsequent decision of the House of Lords in *Westburn Sugar Refineries, Ltd.* (1951, A.C. 625), he suggested that this was not a reason for declining to confirm the reduction of capital; and the Court agreed that the decision last mentioned "removed any doubt that might be created by the previous decision in *In re A. & D. Fraser Ltd.*"

#### Profits Tax

*Distribution—Redeemable Preference shares—Redemption—Premium on redemption in accordance with articles—Premium payable only out of profits—Amount applied in reducing share capital—Whether premium on redemption a distribution—Companies Act, 1929, Section 46—Finance Act, 1946, Section 44—Finance Act, 1947, Sections 30, 35, 36.*

*C.I.R. v. Universal Grinding Wheel Co. Ltd.* (House of Lords, March 30, 1955, T.R. 125) was noted in our issues of August, 1953, at page 264 and May, 1954, at page 187. The company, incorporated in 1935, had a fully paid capital of £600,000 divided into 400,000 5 per cent. cumulative participating Preference shares of £1 and 400,000 Ordinary shares of 10s. each. The participation was limited to a maximum of 8 per cent. and there was no question as to this. Under the articles the Preference shares could be redeemed at a premium of 7s. per share, the premium (under Section 46 of the Companies Act, 1929) being payable only out of profits which would otherwise have been available for dividend. In 1947, it was decided that it would be good policy to redeem them and in December of that year this was done, a new issue being made to provide part of the redemption price. The issue in the case was whether the whole of the 27s. was within the proviso to Section 36(1) of the Finance Act, 1947, which reads:

Provided that no sum applied in repaying a loan or in reducing the share capital . . . shall be treated as a distribution

or only 20s., the 7s. per share being treated as a "distribution" for profits tax purposes. The Special Commissioners and Upjohn, J., had found that the whole 27s. was within the proviso; the Court of Appeal, by a majority, Hodson, L.J. dissenting, had upheld this finding; and a unanimous House of Lords agreed. In rejecting the views expressed by Hodson, L.J., in the Court of Appeal, their Lordships approved the decision of Uthwatt, J., as he then was, in *In re Serpell & Co. Ltd.* [1944], Ch. 233, that the effect of redemption was that the shares redeemed disappeared for every purpose and that both the nominal and the issued capital represented by the redeemed shares disappeared from the company's capital structure.

The opinions of their lordships upon the case generally would seem to have been expressed by Lord Simonds, L.C., when he said as regards the question

what sum the company had applied in reducing its capital:

That seems to me a pure question of fact and the opinion of the present writer is that the issue in the case was pre-eminently one upon which the "ordin-

ary business man"—who is presumed to possess some commonsense—was as qualified to give a right answer as any one else. And there is no doubt what he would have said. The result of the case can scarcely be regarded by the Revenue with equanimity, a fact which probably

explains its persistence in a pretty hopeless task.

[It is regretted that in the advance note of this case on page 222 of our June issue it was wrongly stated that Lord Morton dissented.—Editor.]

## Tax Cases—Advance Notes

By H. MAJOR ALLEN

CHANCERY DIVISION (DANCKWERTS, J.).

**Sharpey-Schafer v. Venn.** May 6, 1955.

**Facts.**—The appellant appealed to the Special Commissioners against certain assessments made on him. Upon an admission by the Inspector that he could not support the assessments, the Commissioners discharged them. The appellant thereupon expressed dissatisfaction and required a case to be stated, apparently to ventilate a grievance against the Inspector.

**Decision.**—Held that the appeal was incompetent.

**C.I.R. v. Pay.** May 11, 1955.

**Facts.**—Mrs. Pay executed a settlement of £60,000 in favour of her grandson, and, by an associated transaction, mortgaged certain of her property to the trustees of the settlement for a like amount as security for a loan. She accordingly paid mortgage interest to the trustees.

**Decision.**—Held that the mortgage interest was paid in consequence of a settlement within the meaning of Section 407, Income Tax Act, 1952, and that the payments were not deductible in computing the sur-tax liability of the settlor, except in so far as they were distributed by the trustees to the beneficiary.

**C.I.R. v. Kenmare.** May 12, 1955.

**Facts.**—Lady Kenmare, a non-resident, transferred United Kingdom securities to trustees who were directed to pay her so much of the income as in their discretion they thought fit during her life, with gifts over to her issue. By a provision of the settlement, the trustees had power to declare that any part of the fund up to £60,000 in any three years was to be held in trust for her

absolutely. If the power was not exercised up to the full £60,000 in any three years, the deficiency could be used to increase the amount in future periods. The trust was a Bermuda trust.

**Decision.**—Held that the settlement fell within the terms of Section 38 (2) of the Finance Act, 1938, now Section 404, Income Tax Act, 1952, and that the settlor was assessable to sur-tax in respect of the whole income of the fund—since the power of the trustees to take funds out of the settlement amounted to a power to revoke or determine the settlement.

**McLennan Rawson & Co. Ltd. v. Newall.** May 13, 1955.

**Facts.**—The company, which carried on the business of timber merchants, purchased certain woodlands for the purpose of felling and selling the timber in the course of its business. It was found by the Commissioners to be a normal incident of the business of timber merchants to enter into such transactions. The purchase price of the land proving larger than had been anticipated, the company sold it forthwith in three lots at a profit. This profit was assessed as part of the profits of the company's business as timber merchants and, on appeal, the General Commissioners confirmed the assessment.

**Decision.**—Held, that there was no evidence to justify the Commissioners' finding and that the profit did not arise in the course of the company's trade.

**C.I.R. v. Parkhouse Collieries Ltd.** May 25, 1955.

**Facts.**—The company carried on the business of colliery owners up to January 1, 1947, when its colliery assets vested in the Coal Board under the Coal Industry Nationalisation Act, 1946.

Thereafter it remained in being solely to prosecute its claim to compensation under the Act. During the fiscal years 1947-48, 1948-49 and 1949-50 it received interim income and other revenue payments under the Act, together with a comparatively small income from investments. Sur-tax directions were made against it on the footing that the interim income was "investment income" and that the company was an "investment company" as defined by Section 20, Finance Act, 1936 (now Section 257, Income Tax Act, 1952). On appeal the Special Commissioners discharged the directions. On further appeal by the Revenue, the Board of Referees held that the determination of the Special Commissioners was conclusive and that no appeal lay to them. At the request of the parties, however, they heard the appeal on its merits and found that the interim income was not investment income and the company accordingly not an investment company.

**Decision.**—Held, that the decision of the Board of Referees was wrong in law, that the company was an "investment company" and that the sur-tax directions must be restored.

**C.I.R. v. R.N. and R.M. Officers' Association.** May 13, 1955.

**Facts.**—The Association, an unincorporated body, provides funeral benefits to members, who are required to pay certain subscriptions. Membership is open to Commissioned Branch Officers of the Royal Navy and the Association publishes a monthly magazine and organises social events. Exemption from income tax was claimed on the ground that the Association was a body of persons established for charitable purposes only (Section 37 (1) (b), Income Tax Act, 1918, now Section 447 (1) (b), Income Tax Act, 1952).

**Decision.**—Held, that the objects of the Association were not exclusively or mainly charitable. The promotion of the efficiency of the Navy was an incidental result, not a primary purpose, of the activities of the Association which was substantially a mutual benefit society.

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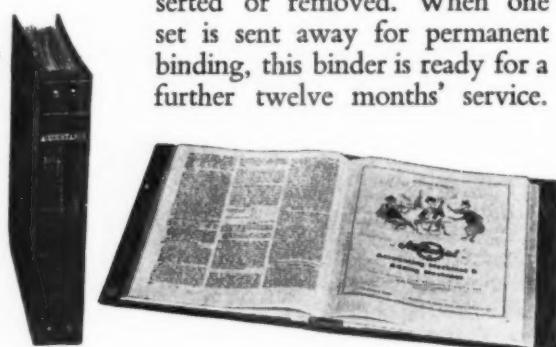
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# The Student's Tax Columns

## PROFITS TAX—LOANS AS DISTRIBUTIONS

A LOAN FROM a director-controlled company to a member is a gross relevant distribution for profits tax. Relief is given when the loan is repaid. The principles can be seen from the following illustration.

In the year ended December 31, 1952, a director-controlled company lent £10,000 to a member. Its profits tax computation was as follows:

Franked Investment Income (F.I.I.) £4,000.

|                                       |                                       |
|---------------------------------------|---------------------------------------|
| Chargeable Profits                    | £28,000 at 22½ per cent. = £6,300 0 0 |
| Gross Relevant Distribution (G.R.D.): |                                       |
| Dividend                              | £12,000                               |
| Disallowable Directors' Remuneration  | £4,000                                |
| Less paid to non-member               | 2,500                                 |
| Loan to member                        | 1,500                                 |
|                                       | 10,000                                |
|                                       | £23,500                               |

Net Relevant Distribution (N.R.D.):

|                                  |                                    |
|----------------------------------|------------------------------------|
| 28,000 × £23,500 =               | £20,562                            |
| 32,000                           |                                    |
| Non Distribution Relief (N.D.R.) | 7,438 at 20 per cent. = 1,487 12 0 |

Profits Tax payable £4,812 8 0

At this point, it is essential to calculate the additional profits tax payable as a result of the loan. It is  $\frac{28,000}{32,000} \times £10,000$  (=£8,750) at 20 per cent., which equals £1,750, since had the loan not been made the N.R.D. would have been correspondingly less and the N.D.R. correspondingly more. This amount of £1,750 is important, since, when the loan is repaid, the N.R.D. of the chargeable accounting period (C.A.P.) in which it is repaid will be reduced by an amount the tax on which at the rate of N.D.R. of that C.A.P. equals £1,750. Suppose the repayment takes place in the year to December 31, 1954, when the computation is:

|                                       |                                       |
|---------------------------------------|---------------------------------------|
| F.I.I. £5,000.                        |                                       |
| Chargeable Profits                    | £30,000 at 22½ per cent. = £6,750 0 0 |
| G.R.D.:                               |                                       |
| Dividend                              | £12,000                               |
| Directors' Remuneration (all members) | 5,000                                 |
|                                       | £17,000                               |
| N.R.D.:                               |                                       |
| 30,000 × £17,000 =                    | £14,571                               |
| 35,000                                |                                       |
| Deduct re loan repaid                 |                                       |
| £1,750 × $\frac{100}{20}$ =           | 8,750                                 |
|                                       | 5,821                                 |
| N.D.R.                                | 24,179 at 20 per cent. = 4,835 16 0   |
|                                       | Profits Tax payable £1,914 4 0        |

Had there been no loan repayment, the position would have been:

|   |                                       |
|---|---------------------------------------|
| Chargeable Profits  | £30,000 at 22½ per cent. = £6,750 0 0 |
| G.R.D.  | £17,000                               |
| N.R.D. $\frac{30,000}{35,000} \times £17,000 =$                             | 14,571                                |
| N.D.R.  | £15,429 at 20 per cent. = 3,085 16 0  |
| If there is deducted the additional tax paid in 1952 in respect of the loan | 3,664 4 0                             |
| The proof of the tax payable results  | 1,750 0 0                             |
|   | £1,914 4 0                            |

It might be asked: "Why not do this simple calculation?" The answer is that the Act requires it to be done the other way, the idea being that in any C.A.P. the relief must not reduce the tax borne below the "retained profit" rate of profits tax—at present 2½ per cent.

Thus, if the figures read:

|  |                                       |
|--|---------------------------------------|
| F.I.I. £2,000.                                 |                                       |
| Chargeable Profits                             | £10,000 at 22½ per cent. = £2,250 0 0 |
| G.R.D.   | £7,000                                |
| N.R.D. $\frac{10,000}{12,000} \times £7,000 =$ | £5,833                                |
| Maximum deduction re loan                      | 5,833                                 |
| N.D.R.   | 10,000 at 20 per cent. = 2,000 0 0    |
|  | Profits tax £250 0 0                  |

This is 2½ per cent. on the £10,000 profits.

|  |            |
|--|------------|
| The tax paid re the loan was                     | £1,750 0 0 |
| The relief was £5,833 at 20 per cent. =          | 1,166 12 0 |
| Leaving tax to be relieved in the next C.A.P. of | £583 8 0   |

Suppose that the balance of the loan is repaid in the future when the rate of profits tax has been changed to 15 per cent. with non-distribution relief of 12½ per cent. (N.B. This is a mere dream!) The computation could proceed:

|   |                                       |
|---|---------------------------------------|
| F.I.I. £3,000.                                  |                                       |
| Chargeable Profits                              | £27,000 at 15 per cent. = £4,050 0 0  |
| G.R.D.  | £14,000                               |
| N.R.D. $\frac{27,000}{30,000} \times £14,000 =$ | £12,600                               |
| Deduct re loan repaid                           |                                       |
| £583 8s. × $\frac{100}{12\frac{1}{2}}$          | 4,667                                 |
|   | 7,933                                 |
| N.D.R.  | £19,067 at 12½ per cent. = £2,383 7 6 |
|   | Profits tax £1,666 12 6               |

Proof. Had the N.R.D. not been affected in either year:

|                |                              |                            |                             |
|----------------|------------------------------|----------------------------|-----------------------------|
| Profits N.R.D. | £10,000 at 22½% = £2,250 0 0 | I                          | £27,000 at 15% = £4,050 0 0 |
|                |                              | 5,833                      |                             |
| N.D.R.         | 4,167 at 20% = 833 8 0       | II                         | 12,600                      |
|                |                              | 14,400 at 12½% = 1,800 0 0 |                             |
| Deduct re loan |                              | 1,416 12 0                 | 2,250 0 0                   |
|                |                              | 1,166 12 0                 |                             |
|                |                              | £250 0 0                   | 583 7 6                     |
|                |                              |                            | £1,666 12 6                 |

£1,166 12s. 6d. + 583 7s. 6d. = £1,750.

## Points From Published Accounts

### Accounts as a Selling Factor

THE CURRENT AMERICAN BUYING of leading British Ordinary shares on the London market is commonly ascribed to statistical comparisons which show Throgmorton Street's wares in favourable relation to what Wall Street has to offer. But it may be seriously suggested that the published accounts of the companies whose shares are being bought on American account may have been a contributory factor. Certainly the reports and reviews published by *Associated Electrical Industries*, *Bowater Paper Corporation*, *Imperial Chemical Industries* and *Unilever* satisfy American standards. The reports and accounts of the last two companies are strictly functional. That is to say, they lack pictorial embellishments, are not printed in luxurious fashion and do not explode any bombshells in accounting minds. Neither company rubs shoulders with what may be termed photogenic end-products, and the figures speak for themselves quite clearly.

The *Unilever* accounts (presumably for 1953) share the annual award of *The Accountant* with those of *Ford Motor*. While its 1954 accounts are not greatly different from those of 1953, *Unilever* has gone in for a two-colour job this time (so doubling the time the printing presses are turning and causing delay in publication) and has produced some unusual diagrams. The most interesting are those giving (a) geographical split of the capital employed and the turnover per £ of capital employed; (b) profit before tax as a percentage of capital employed and percentage of turnover; (c) net additions to capital employed. The last is a block diagram of the past seven years, the lower part of the block showing additions to working capital and the upper part, in colour, showing the excess of expenditure on fixed assets over depreciation for the year.

The salient points of the undertaking, with comparative figures, are statistical meat into which even the unstatistical can get his teeth. He can see at a glance the increases in turnover, capital employed, capital expenditure, trading profits and net profits, and the relation of Ordinary dividends to profits re-

tained in the business. It is small wonder that the shares have been well bought by American investors.

All four companies give comprehensive reviews of their activities, and the *Bowater* accounts, running to 110 pages, are the type which the office boy puts reverently on the desk. Their size must be a record for a British company! The report is a masterly production, and this year the coloured border on the pages of the accounts is an effective yellow. It serves, additionally, as a background for the comparative figures.

The group balance sheet has been simplified, the left-hand side being titled "Capital employed" and the right-hand side "Employment of capital", and details of several of the items are relegated to footnote pages. Thus capital reserves, revenue reserves and undistributed profits appear as single figures, and fixed assets as one figure less depreciation. In the footnotes on a later page are full details of taxation, reserve transfers by the subsidiaries and the parent, and a note of the compo-

sition of the revenue reserves and undistributed profits.

### A New Form of Accounts

The accounts of *Smith and Nephew Associated Companies* are presented in a new form which the chairman hopes that shareholders will approve. Their approval will be forthcoming if they refrain from reading the accounts until they have a clear space three feet wide on their desks, for this is the breadth of the accounts when two pages are opened out—a necessary task before the balance-sheets can be studied. If the *Bowater* accounts take the prize as the bulkiest then *Smith and Nephew's* take the prize as the widest. Details are given of the balance sheet of the holding company, subsidiaries and the group, so making six columns in all, comparative figures being printed on a tinted background. But the distance that the eye has to cover is altogether too great. The company could with advantage dispense with the columns relating to the subsidiaries. This apart, printing and layout are excellent, there is an eight-year tabulation of group statistics which is most useful, two pages giving names of the companies in the group and their principal products, and a detailed speech by the chairman for full measure. The consolidated profit and loss account forms the directors' report, and is in tabular form.

## The Month in the City

### Booming Equities

It need scarcely be said that the Conservative victory was the decisive factor in stock markets in the early part of last month. It has already been noted that there was little fall on the news of the election and on the announcement of the result the industrial Ordinary share index of the *Financial Times* rose 3½ points to a new high of 199.4. Within a week a further 5 points had been added and six days later, on June 8, and again on June 10, the index touched 211.3. To put this in perspective it should be stated that this represents an improvement of 13.8 points in the 18 weeks since the previous peak of early February. This rise on June 8-10 marked the

opening of the new account and it was shortly followed by a minor setback and some decline in the volume of business. It would be difficult to find in quotations any real reflection of either the report of the Royal Commission on the Taxation of Profits and Income or the Queen's Speech, while the market almost consistently refused to regard the railway and dock strikes as being matters which it need seriously consider. No doubt relief that it would not be necessary to guard against possible legislation against dividends helped to account for the equity boom. Another factor was the emergence of virtual certainty that the last had been heard of nationalisation as a major element in Labour policy.

### The Credit Squeeze

It would, however, be a mistake to attempt to consider the position of equities in isolation. The other side of the picture is the action taken to control credit. The figures of the London clearing banks showed further sales of some £75.7 million of investments in the four weeks to May 20 in order to finance an additional £35.6 million of advances. The influences mentioned last month persisted: bankers' deposits in the Bank of England hit new low levels and the active note circulation new high levels. In the first two Fridays of June the weekly bid for Treasury bills fell by fourpence in all, after being steady for a month, raising the rate to just under 4 per cent. All this, however, has had very little effect on the actual level of gilt-edged prices. It is to the narrowing of the yield margin, rather than to the actual fall in fixed interest values, that one must look for signs of an adjustment in outlook which may owe as much to fears of coming inflation as to hopes of expanding prosperity. It may be that the Government is waiting until it is firmly in the saddle to push anti-inflationary action further. But the labour troubles seem to call for far-reaching and sustained measures if further price and wage rises are to be contained. Movements in security values to date are reflected in the following changes between May 19 and June 17 in the indices compiled by the *Financial Times*: Government stocks down from 95.70 to 95.19; fixed interest from 108.02 to 107.22; industrial Ordinary up from 194.6 to 213.9; gold mines up from 85.19 to 86.72.

### First Trustee Issue

The first full trustee issue to be announced after the pause caused by the election was a cash and conversion offer by the New Zealand Government of £10 million 1970-73 at 97½ per cent., carrying a coupon rate of interest of 4½ per cent. This is the first time the nominal rate has been so high for a long time; very little 4½ per cent. stock now exists in this class. The favourable terms, and the excess of the maturing stock, the 3 per cent 1952-55, over the new offer, led some people to expect a rush of cash applications. This would have represented a cheap option on the gilt-edged market, for only 10 per cent. was payable on application and the balance in a month. But the fact that it was necessary to wait for eleven days for the conversion lists to close was a sufficient deterrent to stags and the cash

lists remained open throughout the day. What the next issue will be remains in doubt, but there is talk of a funding operation by the nationalised gas or electricity industries to relieve bank overdrafts. It is also being suggested that the re-negotiation of the terms on which overdrafts are granted may include some measures for fixing maxima. If a new issue is made its terms will have to be generous if it is to be taken up by the public, while an issue taken mainly by government Departments would mean a sharp relaxation of credit pressure and is therefore to be deprecated.

### Company Results

In the past few weeks many company results have appeared, most of them highly satisfactory, although not uncommonly better results are combined with doubts about the future. One concern which is still on top of the world is *Imperial Chemical Industries*. The group managed to combine a rise of some 1½ per cent. in the cost of materials purchased with a 9 per cent. increase in the index of earnings per worker, while raising home sales prices by only a little over ½ per cent. Competition overseas is growing and the better results are probably the joint fruits of production to capacity in a time of trade revival and of heavy capital expenditure in the past. Total turnover of the group on the year rose by some 25 per cent. and the value of exports by 16 per cent. compared with a general rise for all British exports of 3 per cent. The alkali, plastics and dye-stuffs divisions contributed over 65 per cent. of the increase in exports. At the time of writing, only preliminary figures are available of *Courtaulds*. While chemicals are enjoying a secular up-trend which shows no signs of wavering, textiles are less happily placed. Nonetheless, this company secured an increase in trading income of over 5 per cent. and, thanks in part to lower taxation, a much larger increase in net profit. The profits are shown after an appropriation for co-partnership benefits to employees: the character and amount of these benefits is to be disclosed in the full report. It is evident that this type of encouragement is becoming more popular—another company to announce a new co-partnership scheme is *Rolls Royce*—and it is not surprising that the Government has decided to support its extension in industry—though, happily, not to attempt any enforcement.

## Publications

**Byles on Bills of Exchange.** Twenty-first edition. By Maurice Megrah. Pp. lxxvii+439. (Sweet & Maxwell, Ltd.: £3 3s. 0d. net.)

A NEW EDITION of this famous work was overdue, the previous edition having been brought out in 1939. Much has happened in the meantime, but Mr. Megrah has not disappointed us—we can find no important omissions from the twenty-first edition. On the other hand, much has been added. Business men and bankers will be grateful for the generous additions in the field of Dominion and American law, and for the easy table by which sections of the British law can be compared with the Uniform Negotiable Instruments Law of the United States. The design also is much improved, making for the sort of ease of reference one enjoys in the best type of legal textbook.

In yet one other particular the appearance of a new *Byles* is opportune. We refer to the agitation for the elimination of the need for the endorsement of cheques paid into a bank for collection for the account of the payee. This is currently exercising the minds of business men, accountants and bankers, whilst a Government committee is inquiring into the "alleged burdens of indorsement and the scrutiny of indorsements", to quote Mr. Megrah's preface. It is to be noticed, however, that the legal problems arising from endorsements do not form a massive proportion of the study of the law relating to bills.

The present edition is notable also for the care with which legal principles are established. Thus, "by the common law of England no contract or debt is assignable . . . But mercantile experience has proved the assignment of debts to be indispensable, and bills of exchange to be the most convenient instruments for facilitating, securing and authenticating the transfer . . . and the common law has recognised them as part of the *Law Merchant*." Even now, when the rigidity of the common law is much relaxed, bills are the most convenient way of assigning debts, and from this aspect of convenience much of the popularity of the cheque derives.

Legislation regarding assignments and bills spans four centuries of British history, and it is fortunate that a legal craftsman with the envied experience of

Mr. Megrah is available to us to act as its interpreter. In his hands *Byles on Bills* retains firmly its place as the classic on the subject.

H.C.F.H.

**Interpretation of Farm Accounts.** Farmers' Bulletin No. 18. Pp. 28. (*Farm Economics Branch, School of Agriculture, Cambridge*: 2s. post free.)

THIS BULLETIN HAS been written to show farmers and their accountants how an analysis of the annual accounts prepared for the purposes of taxation can produce valuable information on farm efficiency.

Chapter I shows in nine clearly written pages how five key factors of farm efficiency can be computed from the specimen set of figures given in appendix I. These figures can then be compared with the standards applicable to that type of farm and district. Although the terms are synonymous, it may be that the method of calculation of standards is not uniform throughout England, but this lack of uniformity should present no difficulty. The District Advisory Officers of the *National Agricultural Advisory Service* are able to supply standards applicable to the various districts, and, in addition, expert advice upon the interpretation of results. Neither the farmer nor the accountant should hesitate to call for this advice, which is both free and confidential.

The inferences from the example quoted are fully discussed, and it is shown how further information may be sought on deficient standards. It is doubtful, however, whether all farmers and their stockmen will have such good memories as in the example quoted in the booklet.

Chapter II deals with the interpretation to be put upon results. The interesting point is made that an analysis along the lines indicated may disclose that even a farmer considered "above average" can have one or more deficient standards hitherto unsuspected.

In appendix II is a complete set of blank forms which further simplifies the first analysis.

This bulletin is commended to all accountants who number farmers amongst their clients. The farmer, in his turn, will find that increased profits will more than recompense the expense involved—an especially important consideration in the more testing times which undoubtedly lie ahead for British agriculture.

G.S.

**Jordans' Modern Book-keeping.** Part 1, Fourth Edition. By Frank H. Jones, F.A.C.C.A., A.C.I.S. Pp. vii+282. (*Jordan & Sons Ltd.*: 7s. 6d. net.)

THAT THIS IS the fourth edition is sufficient indication that this text supplies a demand. Being a work on elementary book-keeping it quite properly has nothing new to say nor does the author make any attempt to repeat the old in new fashion.

The text is dual-purpose in that while providing the teacher with ready-made examples by the inclusion also of graded exercises it affords the student ample opportunity to test his progress. A special feature is the listing at the end of each chapter of common errors to be avoided.

For future editions the author might perhaps consider:

(1) teaching bank reconciliation so as to reconcile the balance shown on the bank statement with that shown in the cash book and on the financial statement, and not the other way round;

(2) eliminating the prefixes "To" and "By" as being a waste of time and meaningless;

(3) teaching, even at this early stage, the construction and use of control accounts.

These suggestions are made in a helpful spirit to improve what is a good and sound primer for the elementary student, sold at a reasonable price.

R.A.

## Books Received

**Examination Questions on General Commercial Knowledge together with Answers Thereto.** By R. Byrne, A.C.A., A.S.A.A., F.C.I.S. Pp. v+449. (*Students' Publications, Ltd.*, 8 Orchard Drive, Horsell, Woking, Surrey: 10s. 6d. net. By post 11s.)

**Fluctuating Price Levels in Relation to Accounts.** A paper presented by Mr. C. Percy Barrowcliff, F.S.A.A., at the Sixth International Congress on Accounting, London, 1952. Reprint Series No. 15. Pp. 45. (*Society of Incorporated Accountants*: 7s. 6d. post free.)

**Auditing Theory.** By F. Sewell Bray, F.C.A., F.S.A.A. Pp. 8. Reprinted from *The Accountants' Magazine*, January, 1955.

**Towards a Standard Procedure for Agricultural Accounting.** By S. V. P. Cornwell, M.C., M.A., A.C.A. Pp. 12. Reprinted from *ACCOUNTANCY*, March, 1955. (*Incorporated Accountants' Research Committee*: 2s. net.)

**Munro's Book-keeping and Accountancy.** Nineteenth Edition by Alfred Palmer, A.S.A.A. Pp. xiii+582. (*Sir Isaac Pitman & Sons, Ltd.*: 14s. 6d. net.)

**General Commercial & Financial Knowledge.** By E. Miles Taylor, F.C.A., F.S.A.A. 1955 Edition. Pp. x+215 (*Textbooks, Ltd.*: 12s. 6d. net.)

**Australian State Public Finance.** By W. J. Campbell, Auditor-General of New South Wales. Pp. xi+311. (*The Law Book Co. of Australasia Pty. Ltd. Agents in Great Britain, Sweet & Maxwell, Ltd.*: 50s. net.)

**Brushes and Costing.** By the Cost Committee of the B.B.M.A. Pp. 56. (*British Brush Manufacturers' Association*, 80 Coleman Street, London, E.C.2.: 5s. net.)

**Report on Farming, 1953.** A study of Production and Profits in the Eastern Counties with an advisory supplement and Efficiency Standards. Pp. 34. (*Farm Economics Branch, School of Agriculture, Cambridge*: 4s. post free.)

**Supplement to the Eleventh Edition of An Executor's Accounts.** By Taylor, Hough and Griffiths. Pp. 25. Supplement to Tenth Edition of *Executorship Law and Accounts* by Perry and Griffiths. Revised by S. C. Hough, A.I.B. Pp. 13. (*Textbooks, Ltd.*, 20, Milton Road, Harpenden, Herts. 1s. 3d. each.)

**Estate Duty and Private Companies.** By A. R. Ilersic, M.Sc. (ECON.), B.COM. Pp. 26. Practice Note Series No. 38. A reprint with revisions of the article in *Accounting Research*, Vol. 5, No. 2, April, 1954. (*Incorporated Accountants' Research Committee, Incorporated Accountants' Hall, Victoria Embankment, London, W.C.2.*: 4s. net.)

**Parish Council Finance.** By Edmund Lund, M.B.E., F.S.A.A., F.C.I.S. Pp. 52. (*The National Association of Parish Councils*, 26 Bedford Square, London, W.C.1.: 2s. net.)

**Statistics of the County and of the County Council and the Borough and District Councils of Buckinghamshire, 1955-56.** (*County Treasurer's Office, County Office, Aylesbury*.)

**The Theory of Auditing.** By E. H. Davison, A.C.A. Pp. 8. "Reprint" Series No. 17. Reprinted from *ACCOUNTANCY*, January, 1955. (*Incorporated Accountants' Research Committee*: 1s. net.)

**Housing Statistics, 1953-54.** Pp. 77. (*Institute of Municipal Treasurers and Accountants*: 7s. 6d. post free.)

**City of Leeds: Abstract of Accounts, 1953-54. Estimates, 1955-56.** Pp. xvii+568. (*Borough Treasurer, Civic Hall, Leeds, 1.*)

**Second Supplement to Income Tax and Profits Tax in a Nutshell.** By the B.C.A. Tutors. pp. 7. (*Textbooks, Ltd.*, 20 Milton Road, Harpenden, Herts.: 1s. 3d. net.)

**Om Förvaltningsberättelsen Ett Led I Svenska Aktiebolags Årsredovisning. (The Directors' Report in Swedish Limited Companies).** By Sven G. Andrén. Pp. 83. Summary in English is included. (*Handelshögskolan I. Göteborg, Företagsekonomiska Institutionen*, Göteborg, Sweden: 8 Kroner.)

(Continued on page 276).

## Letters to the Editor

### Accounting Education

Sir,—It is to be hoped that Mr. Stacey's article on "Accounting Education" published in the June number of ACCOUNTANCY will stimulate a re-appraisal by the Councils of the accountancy bodies of their examination requirements. The present form of the examinations no doubt tends to make the student concentrate on the assimilation of factual knowledge to the exclusion of a broader view of accountancy; needless to say, this concentration is intensified by the methods used by the correspondence courses on which the majority of present day students depend. In wholeheartedly supporting Mr. Stacey's plea for a change, I should like to comment on one or two aspects of the problem.

On the question of including non-accountancy subjects in the examination, with a view to broadening the prospective accountant's mind, I think a distinction should be made between subjects which would have this effect and those which would not; Mr. Stacey's suggestion of "literature", with all the horrors of "doing set books", must be included in the latter category, whereas his suggestion of "economic history" could be included in the former. A far better solution would seem to be the inclusion of an essay paper in the final examination, as is done in many university degree examinations. This essay need not necessarily be on accountancy or any allied subject, but should allow the examinee to show that he is capable of expressing himself coherently. By including in the examination a paper which cannot be "swotted", I think students would be encouraged to read outside the set subjects.

In view of the increasing specialisation of accountants, would it not be a good thing to allow specialisation in the final examination? This could be achieved by slightly raising the standard of the intermediate examination so that the basic principles of all aspects of accountancy are covered, then a final examination candidate could be allowed to drop certain subjects which have little interest for him and concentrate his studies on the subjects of his choice; this procedure again is used in many university degree examinations.

In conclusion, may I comment on Mr. Stacey's view that the time taken to achieve the combined university degree

and professional qualification is too long? It has long been the contention of the profession that experience in a professional accountant's office is essential to the student and that the minimum length of such service should be five years. If this is true for the person leaving school, surely a period of three years for a graduate is not unreasonable? Furthermore, it must be remembered that a graduate in accountancy is probably below intermediate standard by the professional measuring rod and for this graduate to be expected to sit for his final examination in less than three years would mean a period of intense cramming and a consequent closing of his mind to the more important things in life.

Yours faithfully,

RAY DUPONT, B.COM., A.S.A.A.

Ruislip,  
June 8, 1955.

Sir,—Having only recently sat the final examination of the Society, and therefore being equipped with current experience of the examination syllabuses, I am perhaps in a reasonable position to comment on the stimulating article by Mr. Stacey on accounting education in your June issue. It is interesting at a time when the major agitation appears to be for some mitigation in what is considered by many to be a burdensome curriculum, to read of a recommendation for additional studies unconnected with pure accounting theory and practice. One cannot deny that a cultural outlook is essential but, as Mr. Stacey suggests, the acquisition of culture is more a matter of individual adaptability than of standardised methods of inculcation; you cannot ram culture down the throats of any group in society—in particular down the throats of students who must in the first place occupy a large proportion of their studying time in development of a memory for minute detail and who do not have time in the course of their studies to read much that is outside the immediate scope of the examination requirements.

The answer appears to be to demand a higher standard of education for preliminary entrance to the profession which should be based upon the degree of learning already acquired at a grammar school or university, where the emphasis has been upon culture and the arts

generally. Economics is indeed the nearest approach to a humanistic subject and it would be a good thing if the other professional bodies were to follow the lead of the Society in stressing the importance of this branch of cultural development in their educational programme. It is true that specialised knowledge of technical subjects is not coincident with an appreciation of ethical values but is again a matter for the individual; in every sphere there is the specialist, and the accountant in practice is a man who should be prepared to draw from the knowledge of the other expert and to possess the ability to form opinions which contain at the same time the essential qualities of logic, practicability and morality.

Finally, it is not certain that oral tuition is superior to instruction by correspondence but the former should be utilised to a far greater extent in the final stages of a student's programme as a means of appreciating the real value of the knowledge that he has acquired. There should be as little duplication, except on vital matters, as possible and more of the historical and sociological prefaces to every subject with which the student during the course of a crowded five years comes into contact.

Yours faithfully,  
L. H. LESSER.

Westcliff, Essex,  
June 11, 1955.

### Continuous Auditing

Sir,—I shall be obliged if you will permit me to reply to the review of my book, *Continuous Auditing*, published in your May issue.

The first paragraph states that I "urge" a certain elementary procedure of interim audits. Please state where this "urge" is made as I am unable to find it anywhere in the book.

The second paragraph, after mentioning a minor phrase from the concluding chapter, proceeds to change "practicable", which I chose with care, into "possible", which every second year articled clerk knows to be wrong, and gives an elementary account of audit practice which has certainly nothing to do with the book.

It is protested that test checking came after the introduction of internal check and control. The point is academic and if there is evidence to support this statement I shall gladly accept it, but without evidence I have difficulty in believing that, as businesses grew larger, firms of auditors continued to check hundreds of thousands of items in full until such

time as satisfactory accounting systems and internal checks were established.

It is my opinion that necessity, due to the growth of business, was the root cause of the introduction both of the test check in auditing (as I said in the book) and also of the "modern techniques of internal check".

The third paragraph is, in my opinion, a grossly misleading mis-statement of the suggestions made in the book. It is so simple to take a few bits and pieces and to make them look like a ridiculous whole. To write this paragraph without any reference to the internal check, to the essential need of good accounting systems (both stressed throughout the book) or to the methods by which the accounts were to be examined can have no other effect than to give your readers a completely false impression.

How fooling to proclaim the audit merits of modern techniques of internal check and accounting in one paragraph and to reject their extended use in the next paragraph without advancing a single reason!

A short answer to this paragraph is impossible—the book itself is the answer.

Yours faithfully,  
ANGUS MACBEATH.

Edinburgh,  
May 25, 1955.

Our reviewer comments: It is noted that Mr. MacBeath does not challenge the principal point of the criticism of his book which was that he proposed (we must not say "urged") that periodical audit attendances should become independent of the annual accounts; so that a report could be made on a set of annual accounts up to a date several months in advance of the point which had been reached by the audit staff. The second paragraph quotes the author precisely as using the word "practicable"; the word "possible" occurs in the reviewer's comment. A re-reading of the third paragraph confirms the opinion that it is a fair summarisation of the author's contention. The review nowhere "rejects" the extended use of internal check; like the author I can only recommend the reader to read the book for himself and form his own judgment.

#### Accountants' Group for Medical Insurance

Sir,—There are in existence several associations which have been formed to shield their subscribers against heavy expenses arising from surgical operations and other specialist treatment, as a result of either illness or accident. Many of your readers may be interested to know that arrangements have been made

with one of these associations—the *British United Provident Association*, a nation-wide, non-profit organisation under the presidency of the Rt. Hon. Viscount Nuffield, G.B.E., F.R.S.—for the formation of an Accountants' Group, of which we are the Honorary Group Organisers.

As from June 1, therefore, the Group Scheme facilities of this Association have been available to accountants in practice and/or to the members of their staffs and to qualified accountants, irrespective of their occupation, who are not eligible for membership of any of the Association's other groups.

Those who are already registered with the Association as individual subscribers may transfer to the new group and will be given full credit on a time basis for the unexpired portion of their last contribution. Members of the group will be entitled to a rebate, rising to approximately 20 per cent. on the rates of subscription payable by individual subscribers.

We shall be glad to send full particulars to any person interested in joining or transferring to the Accountants' Group, on receipt of a note of his or her name and address.

It will be understood that this invitation is not addressed to those who have already joined a group scheme sponsored by a District Society of Incorporated Accountants.

Yours faithfully,  
ROSE, GLUCK & CO.,  
Hon. Group Organisers,  
B.U.P.A. Accountants' Group,

Room 5,  
14, Queen Victoria Street,  
London, E.C.4.  
June 13, 1955.

#### Marginal Costing

Sir,—Recently there has been considerable discussion on the *pros* and *cons* of marginal costing.

Views have differed according to the definition of marginal cost—is it the accountant's average variable cost, or the economist's "addition to total cost resulting from the production of one more unit of output"? Can marginal cost be measured in practice? What is the relationship of marginal cost to cost ascertainment and control, price fixing and managerial decision making? These, and many others, have been some of the questions discussed.

The writer would be very interested to hear from readers on their views upon marginal costing, and especially on their experiences of its use in particular

industries. Due acknowledgments will be given in any resulting published work.

The writer realises the pressure of time upon business and professional men, but such information would assist case study work into the subject and may perhaps lead to the replacement of certain generalisations by practicalities.

Yours faithfully,  
ALLEN J. G. SHEPPARD,  
B.Sc.(ECON.).

46 Ascot Close,  
Hainault, Ilford, Essex.  
June 6, 1955.

#### Books Received

(Continued from page 274).

**Government Purchasing and Competition.** By Dickson Reck. Pp. xv+215+15. (California University Press. Agents in Great Britain, Cambridge University Press: 30s. net.)

**Accounting Dynamics—II.** By F. Sewell Bray, F.C.A., F.S.A.A. Pp. 12. Reprinted from *Accounting Research*, Vol. 6, No. 1, January, 1955. "Reprint" Series No. 19. (Incorporated Accountants' Research Committee: 2s. 6d. net.)

**Children Services Statistics, 1953-54.** Pp. 23. **Education Statistics, 1953-54.** Pp. 23. **Local Health Services Statistics, 1953-54.** Pp. 15. **Welfare Services Statistics, 1953-54.** Pp. 23. **Return of Fire Service Statistics, 1953-54.** Pp. 15. **Return of Police Force Statistics, 1953-54.** Pp. 15. (*The Society of County Treasurers and the Institute of Municipal Treasurers and Accountants, 1 Birmingham Place, London, S.W.1*: 3s. each post free).

**Tecnica Amministrativa ed Economia Aziendale.** By Salvatore Umberto Pagnano. Pp. 95. **Studi di Economia e Statistica.** By Salvatore Umberto Pagnano. Pp. 71. (*Universita di Catania, Facoltà di Economia e Commercio*. No price given.)

An impartial committee has compiled for *Victor Britain Ltd.*, car hire specialists, of 12a Berkeley Street, London, W.1, and branches, a *Travellers' Friend and Gastronomic Guide*. Consisting of one sheet, folding into convenient size, it gives a map of the country and a large-scale one of Central London, both indicating 24-hour car service stations, with a list of 400 recommended places, indexed to the maps, "where one can wine and dine well and in comfort." The guide is distributed by *Victor Britain Ltd.* They will send a copy to anybody who forwards 4d. in stamps.



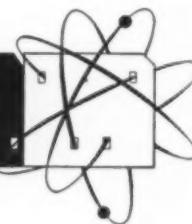
## Editorial Offices

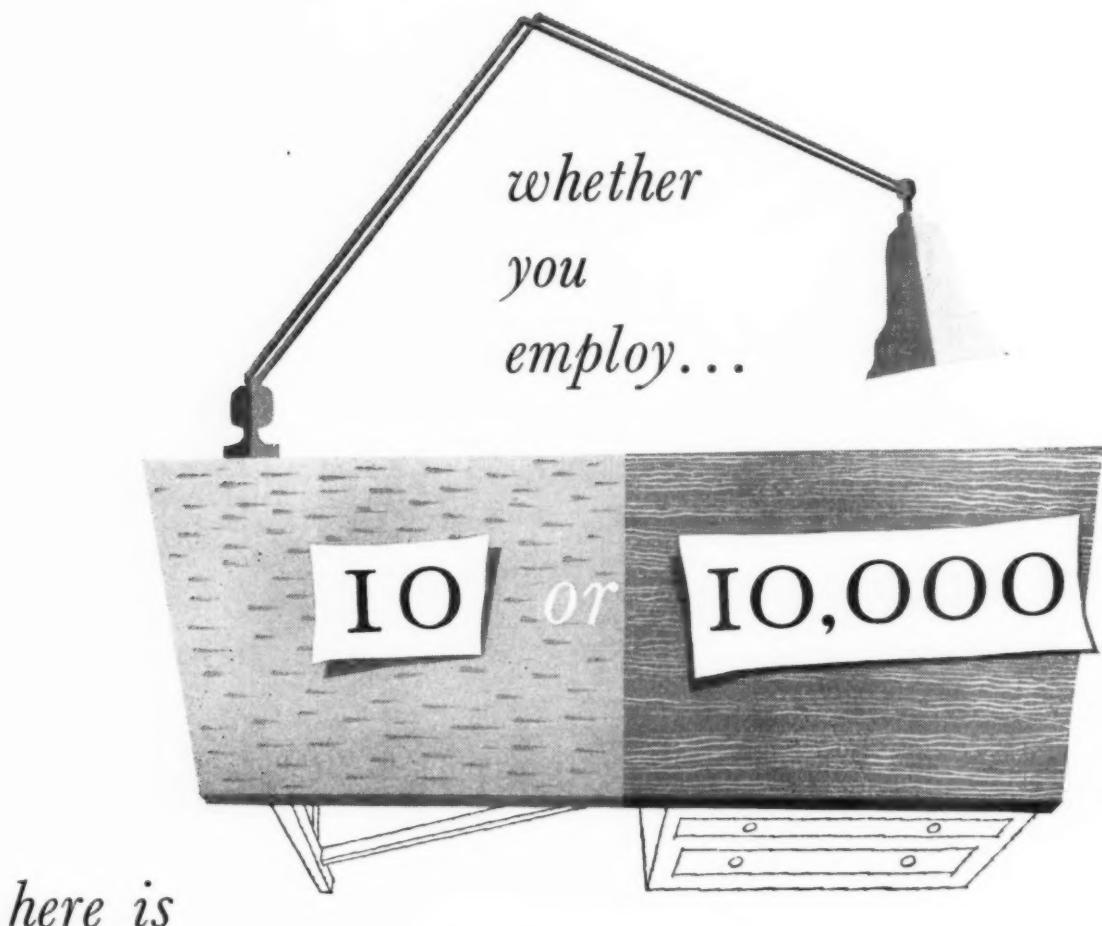
of the journal which describes how punched cards  
 are used for promoting efficient control of  
 manufacture . . . production . . . distribution . . . finance ;  
 the journal which explores and illuminates mechanised  
 accounting procedures in terms which a layman can understand ;  
 the journal which reviews discerningly  
 the progressive use of electronics for . . .

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Savings Certificates and/or Defence Bonds. The employer's contributions are paid into a trust fund opened for the purpose and managed by trustees appointed by employer and employee jointly. Of particular interest is the fact that for income tax purposes the employer's contribution will be treated as a trade expense and will not be counted as taxable remuneration of the employee.

Employers or their representatives who would like to know more about this Scheme are invited to write to the National Savings Committee, 1, Princes Gate, S.W.7 for leaflet S.L.164(A) which gives full particulars.

• THE NATIONAL SAVINGS RETIREMENT SCHEME •

## Readers' Points and Queries

### Balancing Charge—Private Use of Car

*Reader's Query.*—Comments are invited in connection with the undermentioned difference of opinion between ourselves and H.M. Inspector of Taxes concerning an assessment in respect of balancing charges. For capital allowances 50 per cent. is disallowed for private use.

A car with a written down value at April 5, 1952, of £143 was sold for £320 and exchanged for a car costing £750. The respective computations in dispute are as follows:

|                          | Ours          | H.M. Inspector<br>of Taxes |
|--------------------------|---------------|----------------------------|
| W.D.V. of old car        | 143           | 143                        |
| Sales                    | 320           | 320                        |
| Balancing charge         | 177           | 177                        |
|                          | <hr/>         | <hr/>                      |
| New car. Cost            | 750           | 750                        |
| Half Balancing<br>charge | 89            | 177                        |
|                          | <hr/>         | <hr/>                      |
| 1953-54 Allowance        | 166 Half = 83 | 143 Half = 72              |
|                          | <hr/>         | <hr/>                      |
|                          | £495          | £430                       |

*Reply.*—We can find no justification in the Acts for the Inspector's treatment. Section 296 is quite clear in saying that it is the balancing charge and not a notional figure that has to be deducted from the cost of the replacement. There never was a balancing charge on £177, but on £89. The Inspector should be asked his statutory authority for his treatment. It is to be noted that Simon's Income Tax, second edition, volume 2, paragraph 328, says "It is understood to be the Inland Revenue view that it is the restricted amount, i.e. after adjustment, which is to be deducted."

### Allowance of Motor Expenses for Income Tax

*Reader's Query.*—It has been suggested to me that where a company or firm pays for the motor car expenses of its directors or partners as a perquisite, the full charge is admissible for taxation allowance irrespective of whether the car is fully used on business on behalf of the company or firm or partly used therefor and partly on private affairs.

I have explained that the test as to whether such expenses were wholly and necessarily used in connection with the business still is the test for income tax allowance when it comes to agreeing the Case I assessment with the Inspector; but the argument has been advanced that as a free house given by a firm to its

employees without right of sub-letting can be charged as regards Schedule A against the profits for taxation purposes, perquisites given by way of expenses are equally admissible.

I hold that my interpretation is correct, but there may be a point in the contrary argument worth examination.

*Reply.*—In our opinion there is no case for disallowance of motor expenses of directors in the Case I assessment. The directors themselves will be liable for the tax on private use. The same applies to employees of the £2,000-a-year class, caught by Chapter 2 of Part 6, Income Tax Act, 1952. In the case of partners, the position is different and it is a question whether the expenses were wholly and exclusively incurred for the purposes of the trade. The distinction is, of course, that directors are employed by the company whereas partners are themselves carrying on the business.

The above opinion must be qualified to this extent, that if there is part-time use for purposes other than trade purposes, the initial and annual allowances can be proportionately disallowed under Section 289.

### Racing Establishment— Whether a Trade

*Reader's Query.*—A wholesale grocer has bought two racehorses which have incurred a loss in the first year of £400, due to training, entrance fees and sundry expenses. It is anticipated that more horses will be purchased and breeding take place. The Inspector of Taxes states that while the activities are on the present scale, the Revenue do not admit that a "trade" is being carried on. Our client wishes the Revenue to make a definite decision whether this is a trade or a hobby. Can we require the Revenue to make such a decision please?

*Reply.*—Reference can usefully be made to the decision in *Sharkey v. Wernher* [1954] 2 All E.R. 753, Court of Appeal, which is the latest case on this line of country. We understand, however, that it is going to the House of Lords on the question of the value to be placed on animals transferred for breeding to racing. It does show, however, that breeding horses is a trade whereas the carrying on of a racing establishment is looked upon as being recreational and

not subject to tax. It is a question of fact whether racing is of such a nature as to constitute a trade. The matter can be brought before the Appeal Commissioners, General or Special, as may be decided, by an application under Section 341 for repayment of tax on the loss or by an application under Section 142 to set off the loss against the profits of the other business. It may be that a claim under Section 341 is out of date, but Section 142 ought to be available.

### Computation of Profits—Capital Allowances

*Reader's Query.*—In the example given in the June issue (page 227), the plant costing £1,000 was purchased on February 14, 1955, and was therefore not in use at the end of the basis period for 1955/56, on December 5, 1954.

Is it therefore correct, under the actual basis, to compute the annual allowance for 1955/56 on the figure £10,002?

*Reply.*—It is true that the plant and machinery was not in use at the end of the basis period but it is not the practice of the Inland Revenue to require plant and machinery which is already in the computation to be taken out in such circumstances. This is one of the occasions where convenience of administration is more important than the application of strict law, which would complicate matters.

### Accountants in Brazil

The second annual general meeting of the Abacus Society was held in São Paulo, Brazil, on April 27. The President, Mr. C. K. Atkinson, said the twenty-six ordinary members of the Society now included a Certified Public Accountant of North America and two members of the New Zealand Society, in addition to members of the English and Scottish accountancy bodies.

The oversea visitors entertained during the year included the British Parliamentary delegation to Brazil and delegates to the third Inter-American Accounting Congress.

An Abacus Society had now, said Mr. Atkinson, been formed in Rio de Janeiro, and it was hoped that the two societies would operate under similar rules and bye-laws.

Mr. G. H. Osborn was elected President, Mr. M. M. Potter Vice-President, Mr. C. J. Cross Treasurer and Mr. C. Glenton Secretary.

# Legal Notes

## Contract and Tort—

### Damage to Buildings from Roots

Occupiers of land are often unaware how much damage can be done to buildings by tree roots which extract water, especially in clay soil, and cause a subsidence. The latest case on this subject is **McCombe v. Read** [1955] 1 W.L.R. 635, in which the plaintiff was awarded damages and an injunction against his neighbour for damage caused to his house by projecting roots. In this case, as in many others, poplars were the offenders.

## Contract and Tort—

### Compliance with Conditions of Insurance Policy

A Lloyd's insurance policy on an aeroplane contained the following clause:

The observance and performance by the insured of the conditions of the policy so far as they contain anything to be observed or performed by the insured are of the essence of the contract and are conditions precedent to the insured's right to recover hereunder.

The aeroplane had a crash and on a claim being made the question arose whether the insured had to prove that he had complied with all the conditions before he was entitled to recover or whether the onus lay on the insurers to prove that one or more conditions had been broken.

Lord Goddard held in **Bond Air Services Ltd. v. Hill** [1955] 2 W.L.R. 1194, that, if insurers disputed the validity of a policy, the onus was on the insured to prove the performance of all conditions necessary to establish the policy, but once the policy had been established the normal rule was that an insurer who wished to avoid liability by relying on an exception or breach of condition must prove that exception or breach of condition. No doubt the rule could be displaced by clear words in a policy, but in this case the normal rule applied, and it was for the insurers to prove a breach of condition.

## Executorship Law and Trusts—

### Gift of Income Without Mention of Capital

In **Re Arnould deceased** [1955] 1 W.L.R. 539, a testator, after making various bequests, stated in his will: "All other money belonging to me I wish to tie up

in trust for my four grandchildren until each reaches the age of 25 years". Nothing more was said in the will about the residue of the estate.

Upjohn, J., held with some reluctance that there was no express gift of the capital to the grandchildren and that no such gift should be implied: the grandchildren would take the income until they became 25, but the capital would then pass to those entitled on an intestacy.

## Insolvency—

### Extortion

A creditor who uses a debt as a means of "extortion" against a debtor is barred from using that debt at any time in bankruptcy proceedings. Important principles on the meaning of this rule were laid down by the Court of Appeal in **Re Majory** [1955] 2 W.L.R. 1035 and an article on the subject appears on pages 252-4 of this issue.

## Miscellaneous—

### Compensation on Compulsory Purchase

Two decisions have recently been given about the amount of compensation payable on a compulsory purchase.

In **W. Rought Ltd. v. West Suffolk County Council** [1955] 2 W.L.R. 1080, factory premises were compulsorily acquired and as the owners could not obtain other premises for some nine months they were entitled, *inter alia*, to receive compensation for the loss of profits that they would otherwise have made during that period. The Lands Tribunal calculated the compensation without allowing for the tax that would have been payable on the profits if they had been earned in the ordinary course of business, and the Court of Appeal upheld this method of calculation. They said that what the acquiring authority had to pay by way of compensation was a sum which, as far as money could do it, would put the owner in the same position as if his land had not been taken from him. Whether any tax had to be paid on that sum was a matter between the owner and the Crown and was not the concern of the acquiring authority.

Leave was given to appeal to the House of Lords and it is to be hoped that a final decision will soon be given on this important question, which arises not only on compulsory acquisition but also on claims for damages for loss of profit or wages in contract and tort (see **Billingham v. Hughes** [1949] 1 K.B. 643).

In **Lambe v. Secretary of State for War** [1955] 2 W.L.R. 1127, the Secretary of State compulsorily acquired the free-

hold of premises of which he already held a lease and which were occupied by a Territorial Association. It was agreed between the acquiring authority and the owner that a sitting tenant would pay a higher price for the freehold than would an outsider who was buying the freehold for investment. The question was whether this extra price should be excluded by Section 2 (3) of the Acquisition of Land (Assessment of Compensation) Act, 1919, which provides:

The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers or for which there is no market apart from the special needs of a particular purchaser or the requirements of any government department or any local or public authority.

The Court of Appeal held that the expression "special suitability or adaptability of the land" refers to the quality of the land as opposed to the needs of a particular purchaser. The fact that a sitting tenant might be prepared to pay more than an investor in order to obtain more security of tenure and a greater control over the land was not a factor to be excluded in the assessment of the price and accordingly the owner was entitled to the higher sum.

## Miscellaneous—

### Signature by Agents

Many statutes and contracts stipulate that notices must be signed by particular persons, and the question often arises whether notices are valid if they are signed not by those persons themselves but by their agents. In **London County Council v. Agricultural Food Products Ltd.** [1955] 2 W.L.R. 925, a tenancy agreement provided that the Council could give a notice to quit "signed by the valuer to the Council." A notice was given in the name of T. who was the valuer for the time being, but T.'s name was written not by himself but by an assistant valuer.

The Court of Appeal said that the general rule of common law was that a person sufficiently "signs" a document if it is signed in his name and with his authority by someone else; occasionally a statute or an agreement might make it essential that the signing should be done personally by the man concerned, but there was nothing in this agreement to displace the common law rule. Accordingly, if it was proved that the assistant valuer had authority to sign, the notice to quit was good.

# THE SOCIETY OF Incorporated Accountants

## New Members of the Council

(See also page 243).



Mr. A. Blackburn,  
F.S.A.A.



Mr. H. L. Layton,  
M.S.M., F.C.A., F.S.A.A.

## Incorporated Accountants' Benevolent Fund

THE ANNUAL GENERAL MEETING of subscribers and donors to the Incorporated Accountants' Benevolent Fund was held at Incorporated Accountants' Hall on May 17. Sir Frederick Alban, C.B.E., J.P. (President of the Fund) was in the chair.

Sir Frederick said he could not let that occasion pass without paying a high tribute to Mr. Walter Southwood Smith, whose regretted death was announced in the report. Mr. Southwood Smith had given many years of devoted work to the Fund.

It was satisfactory that the level of contributions to the Fund was being maintained, and the Trustees earnestly hoped this would continue. He again urged all subscribers not only to continue their own generous support but also to try to interest other members in the work of the Fund. The number of beneficiaries was slightly lower in 1954 due, he regretted to say, to the passing of some of the beneficiaries and, more happily, in other cases to a favourable

change in circumstances. As always, the Trustees had devoted a large proportion of the grants to the care and education of children.

The Trustees wished him to express their warm thanks to Honorary Secretaries of District Societies and individual members who have assisted in the work of the Fund. Many beneficiaries had derived as much benefit from personal visits and friendly counsel as from the more material grants. It was important to make each beneficiary feel that there was someone who cared for his welfare and peace of mind.

On behalf of all present Sir Frederick thanked the Chairman, Mr. Percy Toothill, and his fellow Trustees for their devoted work and capable administration of the Fund.

He then moved the adoption of the report and accounts for the year 1954. This was seconded by Mr. Percy Toothill and agreed.

Mr. Percy Toothill proposed the re-election as President of Sir Frederick Alban.

Mr. C. Percy Barrowcliff seconded, and the proposition was carried by acclamation.

Mr. J. E. Spoors moved and Mr. G. M. Squire seconded that Mr. G. W. Chapman, Mr. A. A. Garrett, Mr. C. D. Gibson, Mr. A. Hannah, Mr. A. P. Rivers, Mr. W. Strachan, and Mr. W. McIntosh Whyte be re-elected as Vice-Presidents of the Fund. This was carried unanimously.

On the motion of Mr. E. J. Waldron, seconded by Mr. J. W. Richardson, it was unanimously agreed that Mr. Percy Toothill, Mr. C. Percy Barrowcliff, Mr. R. Wilson Bartlett, Mr. R. M. Branson and Mr. E. Cassleton Elliott be re-elected as Trustees, with an expression of thanks for their continued services.

Mr. F. S. Ralphs proposed the re-election of Mr. James A. Allen as Honorary Auditor, with a vote of thanks. Mr. H. W. Pople seconded the resolution, which was carried unanimously.

A vote of thanks, proposed by Mr. P. F. Pierce, was accorded to Sir Frederick Alban for presiding.

### Sixty-second Annual Report

IT IS WITH deep regret that the trustees have to record the death of Mr. Walter Southwood Smith, a Vice-President, who always took a keen and active interest in the work of the Fund. He was Honorary Auditor of the Fund from 1895 until 1947 when he retired from practice and was elected a Vice-President.

At the last annual meeting of subscribers the resignation of Mr. Walter Holman, who had been a trustee since 1941, was accepted with regret and with warmest thanks for his devoted work for the Fund for so many years. At the same meeting Mr. Charles Percival Barrowcliff was elected a trustee to fill the vacancy caused by the resignation of Mr. Holman.

The revenue of the Fund in 1954 at £4,306 shows an increase of £12 over that in 1953. The rules limit the expenditure in any one year to the amount of the income derived in the previous year from subscriptions and dividends from investments. The income from these sources during the last five years was:—

| Year | Sub-<br>scrip-<br>tions | Dividends from<br>investments and tax<br>recovered from<br>dividends and<br>covenanted<br>subscriptions |   | Total |
|------|-------------------------|---|---|-------|
|      |                         | £   | £ |       |
| 1950 | 1,984                   | 1,204   |   | 3,188 |
| 1951 | 2,346                   | 1,125   |   | 3,471 |
| 1952 | 2,460                   | 1,281   |   | 3,741 |
| 1953 | 2,445                   | 1,849   |   | 4,294 |
| 1954 | 2,464                   | 1,842   |   | 4,306 |

The Trustees express their deep gratitude to all who contributed to the Fund in 1954, and they particularly desire to record their special appreciation of the following gifts: T. C. Fittow Will Trust (Fifth grant) £105; South African Western Branch £31; Incorporated Accountants' Lodge £26.

The Trustees earnestly appeal for continued support for the Fund, either by way of subscriptions or by covenanted sub-

scriptions for seven years: the advantage of the latter arrangement in repayment of income tax is, as members know, considerable.

The Trustees report with regret that three elderly beneficiaries died during the year. They are pleased to record that three other beneficiaries, who had received assistance with the education of children, announced that they had reached a stage when they could manage without further support from the Fund. Five other cases were also closed in which grants had been made for one specific purpose. On the other hand, ten new applications were received during the year and grants were made in respect of five of them, bringing the total number of beneficiaries in 1954 to 35. Although, by a coincidence, the amount disbursed in grants during the year under review was the same as in 1953, there were fewer recipients; but the continued rise in the cost of living made it necessary to increase the scale of grants in most cases.

The grants made during 1954 can be classified in the following manner:

|  | No. of Cases | Total Grants | £ |
|--|--------------|--------------|---|
| Widows and dependants of deceased members .. | 16           | 1,611        |   |
| Education and support of children .. ..      | 15           | 1,694        |   |
| Members or former members ..                 | 4            | 335          |   |
|  | 35           | 3,640        |   |
|  |              |              | — |

It will be observed that the Trustees continued to devote a large proportion of the resources available to the education and support of children. The Fund continued to co-operate with the R.A.F. Benevolent Fund in educating the two children of a member who died on active service.

The amounts disbursed to beneficiaries during the past five years was:

| Year       | Amount disbursed | No. of Beneficiaries | £ |
|------------|------------------|----------------------|---|
| 1950 .. .. | 3,015            | 36                   |   |
| 1951 .. .. | 2,794            | 30                   |   |
| 1952 .. .. | 3,280            | 39                   |   |
| 1953 .. .. | 3,640            | 41                   |   |
| 1954 .. .. | 3,640            | 35                   |   |

In addition to financial assistance, the Trustees endeavour, wherever possible, to establish a personal link between the Fund and the beneficiary. The Trustees gratefully acknowledge the help they have continued to receive from Honorary Secretaries of District Societies and other Incorporated Accountants in this important aspect of the work of the Fund.

During the year, the Trustees appointed Mrs. Irene Duncalf as Assistant Hon. Secretary of the Fund, and they wish to place on record their appreciation of the services she has rendered to the Fund.

Mr. James A. Allen, Incorporated Accountant, London, has indicated his willingness to continue in office as Honorary Auditor, and the Trustees desire to record their warm appreciation of his past services.

## Memorial to Mr. Fred Woolley

A MEMORIAL STAINED glass window has been installed in the chapel of the Royal South Hants Hospital, Southampton, in memory of the late Mr. Fred Woolley, F.S.A.A., J.P. (President from 1945 to 1947 of the Society of Incorporated Accountants), who was chairman of the hospital committee from 1934 to 1948.

At a service on March 27 the window was unveiled by Edith, Lady Congleton, chairman of the Southampton Group Hospital Management Committee, and dedicated by the Bishop of Southampton, the Right Reverend K. E. N. Lamplugh. An address was given by the rural dean, Canon H. D. Caesar.

The service was attended by Mrs. Fred Woolley and members of the family, all the partners and a representative of the staff of Messrs. Woolley & Waldron, members of the Hospital Management Committee and of the staff of the hospital, and representatives of companies and other bodies with which the late Mr. Fred Woolley was associated.

## Membership

THE FOLLOWING PROMOTIONS in, and additions to, the membership of the Society have been completed during the period March 8, 1955, to June 7, 1955.

### Associates to Fellows

BLANN, Basil Edward John (*Francis Dix, Bird & Co.*), Johannesburg. CARLISLE, Gerald Frederick (*Dunn, Hornby & Cowie*), Nairobi. COOKE, Derek Francis Lawrence (*Slater, Chapman & Cooke*), London. DHONDY, Homi Behramji (*S. B. Billimoria & Co.*), Bombay. DUBASH, Minocher Dosabhai (*S. B. Billimoria & Co.*), Bombay. ELLIS, John Desmond Marsden (*Ellis & Newall*), Pontefract. FREEMAN, John Albert (*Horsfield & Smith*), Bury. FRENCH, John Duncan (*R. Duncan French & Co.*), Liverpool. GREEN, Owen Whitley (*Charles Wakeling & Co.*), London. HAMBLING, Frederick David, Norwich. HEASMAN, Sidney Ronald (*Stanley Gorrie, Whitson & Co.*), London. KAY, Norman Newiss (*Fredk. C. Croft & Co.*), Leeds. KIRKMAN, Norman (*Starkie & Naylor*), Leeds. LOVERIDGE, Albert (*Loveridge & Moore*), Southport. MACLENNAN, Iain (*Alexander, MacLennan, Trundell & Co.*), Nairobi. MOORE, Joseph (*Loveridge & Moore*), Southport. OGDEN, Agnew George (*Jacques & Stirk*), Keighley. OLIVER, William George Charles (*Thomas Bourne & Co.*), Burton-on-Trent. PLEASANCE, Spencer Laurence, Parnall (Yate) Ltd., London. RUDKIN, Leslie Ernest, Leicester. SMITH, Frederic Joseph (*Cassleton Elliott & Co.*), London. STIRK, Percy Wright (*Jacques & Stirk*), Keighley. TAYLOR, George Herbert (*Gough, Wright & Co.*), Dudley. TRUNDELL, Ernest Harry (*Alexander, MacLennan, Trundell & Co.*), Nairobi. WHYTE, John Hanson, South Shields. WOOD, Kenneth Taylor (*Derry, Ellman-Brown & Fraser*), Salisbury, S.R.

Associates

APPLEBY, John Alexander, with Deloitte, Plender, Griffiths, Annan & Co., Salisbury, S.R. BAILEY, William Leonard, with R. F. Frazer & Co., London. BENZECRY, Michael Raphael, with Lithgow, Nelson & Co., London. BERMAN, Barry Jules Walter, with Auerbach, Hope & Co., London. BOLT, Clifford Leslie, with Howard Pim & Hardy, Johannesburg. BONELLA, Donald, with Radford, McColl & Co., Southampton. BOULT, Peter John, with George MacKeurtan, Son & Crosoer, Durban. BREALEY, Peter Herbert, with Boaler & Flint, Nottingham. CARTER, David Geoffrey Reginald (*Gill & Johnson*), Nairobi. CHILINGWORTH, Leonard William Edward, with Pawley & Malyon, London. CHRISTIE TAYLOR, David Ransome, with Whiteley Brothers, Johannesburg. CLARKSON, Donald Robert, with Larking & Larking, Maidstone. CLIFT, Ian Lionel, with J. Frith & Co., Manchester. CROW, Raymond Felix (*Radford, McColl & Co.*), Southampton. CURRY, Anthony Nicholas, with Whiteley Brothers, Johannesburg. DANIELS, John Ward Lyle, with Pulbrook, Wright & Underwood, Salisbury, S.R. GARBACZ, Bernard, with Edward Em. Sander & Co., London. GEORGE, Dennis Thomas, with Binder, Hamlyn & Co., London. GRINDROD, Peter John, with George MacKeurtan, Son & Crosoer, Durban. HARPER, Alan (*Clifford Thornton*), Preston. HECKFORD, John Herbert, with Binder, Hamlyn & Co., London. HENDERSON, Robert Taylor (*James & J. H. Paterson*), Greenock. HENNING, Charles Brian (*Thomas & Co.*), London. HENSON, Derek Edward, with Cooper & Cooper, London. HERRERA, David John Brendon, with Walter Hunter, Bartlett, Thomas & Co., Newport, Mon. HEWITT, Peter John, with J. A. Cook & Co., London. HOMBURGER, Alfred Nathan, formerly with Louis E. Kaplan & Co., Johannesburg. HUMPHRIS, Bevil Blundell, with Whiteley Brothers, Johannesburg. HUNTER, Alan Nathaniel, with Humble & Glenton, Newcastle upon Tyne. IRELAND, Hugh Malcolm, with Alban & Lamb, Newport, Mon. JOHNSON, Herbert Ronald, with Charles Wakeling & Co., London. KEYS, Derek Lyle, with Deloitte, Plender, Griffiths, Annan & Co., Johannesburg. KING, John Michael, with Walpole & Co., Worthing. LAND, James Gordon Murray, with Walpole & Co., Worthing. LEWIS, Kenneth Maynard (*Derry & Lewis*), Salisbury, S.R. LILLEY, Clifford Desmond, Cape Town. LOWE, George, with Slater, Dominy & Swann, Cambridge. MILNER, Robert Jackson, with Walter Dawson & Son, Dewsbury. MIRZA, Boman Maneckji, B.com., formerly with S. R. Batliboi & Co., Calcutta. MOORE, Philip Clement Locke

(*Derry & Lewis*), Salisbury, S.R. MURPHY, Bryan Anthony Gregory, with J. A. Kinnear & Co., Dublin. NETTLETON, Jeremy Shaw, with Stanley W. Marshall & Co., Herne Bay. O'SHEA, Denis, with Alban & Lamb, Cardiff. PEGGE, Denis Christopher, with Joseph W. Shepherd & Co., Manchester. PETHERICK, Ian Stuart (*Allnutt, Bradfield & Co.*), London. PEYCKE, Truscott John Henry, with George MacKeurtan, Son & Crosoer, Durban. RILEY, Derek Brian, with Goldby, Panchaud & Webber, Johannesburg. SCOTT, Peter, with G. K. Tucker & Wilson, Johannesburg. SEN, Bansi, formerly with F. F. Sharles & Co., London. SHERLOCK, Bernard Arthur Joseph, with Woodington, Bubb & Co., London. SMEE, Anthony John, with Baker, Todman & Co., London. STEWARD, Jack Kenneth (*Tessier, Son & Randall*), Purley. WACKRILL, John Dunbar, formerly with Alex. Aiken & Carter, Johannesburg. WALLWORK, Roger Alan, with Willett, Son & Garner, Manchester. WHITE, John Desmond, with Malpas, Simmons & Co., Bournemouth. WHITE, Robin William, with Francis Dix, Bird & Co., Johannesburg. WYNNE, Nathan, with Field & Co., London.

## District Societies and Branches

### Central African Branch

THE ANNUAL GENERAL meeting was held in Salisbury, Southern Rhodesia, on May 27. The following officers and committee were elected: Chairman, Mr. J. Craig Allan, M.B.E., F.S.A.A.; Vice-Chairman, Mr. K. T. Wood, F.S.A.A.; Committee: Mr. J. L. R. Brown, A.S.A.A., Mr. J. Craig Allan, M.B.E., F.S.A.A., Mr. C. F. Buckland, F.S.A.A., Mr. J. G. Dudley, F.S.A.A., Mr. E. K. Hockey, F.S.A.A., Mr. A. J. L. Lewis, A.S.A.A., Mr. B. W. S. O'Connell, A.S.A.A., Mr. A. Spedding, A.S.A.A., Mr. K. T. Wood, F.S.A.A., Mr. R. G. Wuth, F.S.A.A.; Hon. Secretary, Mr. B. Gelfand, A.S.A.A.

### South African (Eastern) Branch

THE ANNUAL GENERAL MEETING was held in Durban on May 9. The Chairman of the Branch, Mr. B. Halsey, presided.

The accounts for the year 1954 were adopted, and the members accepted the joint report of the three South African Branches, on the motion of the Chairman, seconded by Mr. C. D. Ramsden.

Mr. F. E. Osborn was re-elected auditor, and the three retiring members of the Branch Committee were re-elected.

Mr. Alan R. Butcher, the Society's nominee on the Public Accountants' and Auditors' Board, gave a brief review of its work.

On the motion of Mr. C. D. Ramsden, votes of thanks were accorded to Mr. Halsey for his services as Chairman of the

Branch and to Mr. Alan R. Butcher for his work and interest as Honorary Secretary.

### Dublin Students' Society

A MOST SUCCESSFUL refresher course was held in Dublin from April 25 to 30.

A total of 108 Final and Intermediate students attended. They were drawn from all parts of Ireland, North and South, and included a number of students for the examinations of the Institute of Chartered Accountants in Ireland and of the Association of Certified and Corporate Accountants. The lecturers were Mr. V. S. Hockley, B.COM., C.A., Mr. G. M. Wheeler, F.C.A., A.C.I.S., and Mr. R. I. Morrison, A.C.A.

In view of the success of the course, it is proposed to run similar courses half-yearly in future prior to the examinations.

### Devon and Cornwall

#### Annual Report

THE COMMITTEE HAS again distributed the lectures over as wide an area as possible, but attendances were generally disappointing.

A dinner was held at Plymouth in November, 1954. This was successful and was well supported.

The Library, operated in conjunction with the Plymouth Corporation, continues to prove of value to members and students. Additions to the stock of books have been made.

A scheme for ensuring medical and nursing treatment benefits has been adopted by the Committee.

During the past year a Presidential Badge has been obtained, largely due to the generous contributions of individual members.

Seven students completed the Final Examination during the year, and seven passed Part I. Six were successful in the Intermediate and three in the Preliminary.

The Committee regrets to record the death of Mr. Herbert Samuel Bull. He was an original member of the Committee and was President from 1937-1944. He will be greatly missed.

### Manchester

#### Annual Report

SEVEN MEETINGS WERE held for meetings and discussions, including four joint meetings with other bodies. The dinner on January 13 was very successful. There are 173 practising members, 390 non-practising, and 570 students—total 1,133.

Thirty-four students passed the Final examination, one of whom (Mr. K. P. Bhargava) attained honours. Thirty-eight were successful in the Intermediate.

Liaison with adjacent District Societies has strengthened during the year.

A number of our students attended the course held in Liverpool in April 1954. A course is being held in Manchester in April 1955.

The officers and committee met newly-qualified members at dinner.

### Northern Ireland

THE ANNUAL GENERAL meeting was held in Belfast on June 13. The report and accounts were adopted, and the office bearers and retiring members of the Committee were re-elected.

The President, Mr. J. D. Radcliffe, congratulated Mr. H. V. Kirk, a member of the Committee, on his election as a Councillor of the City of Belfast.

Mr. Radcliffe asked members to help where possible in the project of the Northern Ireland Public Record Office to compile a register of commercial archives. Firms would not be asked to part with their documents, but to put them on record as a guide to raw material for economic research.

#### Report

The membership totals 325, including 196 students.

Five luncheon meetings followed by talks were arranged. The annual golf outing was held in September and the students' ball in December.

The Research Committee continued its work in conjunction with the committee in London.

Congratulations are extended to the successful examination candidates, and especially to the Irish Jubilee Prizemen—Mr. F. Crawford Shaw, Belfast (Intermediate) and Mr. B. A. G. Murphy, Dublin (Final).

The Students' Society held eight lectures and visits.

The Committee regrets to report the death of Mr. J. H. Allen, a past President and former Secretary of the District Society.

### Yorkshire

#### Annual Report

THE MEMBERSHIP CONSISTS of 68 Fellows, 410 Associates and 404 students—total 882.

Mr. C. E. Grayson, A.S.A.A., a Vice-President, resigned from the Committee owing to pressure of business. The Committee appointed Mr. J. Astle, A.S.A.A., to fill the vacancy.

The Committee congratulates the students who were successful in the examinations in 1954. Twenty-seven completed the Final, twenty-one passed one Part of the Final, and thirty-two passed the Intermediate. Mr. M. Blessit was awarded the first place certificate and first prize in the November Intermediate Examination, and was presented with a District Society prize.

Six meetings for members and students were held. A happy evening was spent by members and their guests at the dinner dance on January 7.

Mr. J. F. Dowzall was appointed Honorary Secretary of the Students' Section on the resignation of Mr. E. A. Dunn, who is thanked for his services during the previous three years. The students held a successful dance on February 1. Saturday morning revision classes were arranged before the May and November examinations.

## Examinations— November 1955

THE SOCIETY'S EXAMINATIONS will be held on the following dates:

Preliminary: November 8 and 9, 1955  
Intermediate: November 10 and 11, 1955

Final: Part I November 8 and 9, 1955  
Final: Part II November 10 and 11, 1955

The Centres will be Belfast, Birmingham, Cardiff, Dublin, Glasgow, Leeds, Liverpool, London, Manchester, Newcastle upon Tyne and Southampton.

Completed application forms, together with all the relevant supporting documents and the fee (Final, Part I, £4 4s.; Part II, £4 4s.; Parts I and II together, £7 7s.; Intermediate, £4 4s.; Preliminary, £3 3s.) must reach the Secretary at Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London, W.C.2., not later than Monday, September 19, 1955.

Candidates are asked to obtain application forms from the Honorary Secretary of their Branch or District Society.

## Personal Notes

Mr. A. A. Haller, A.S.A.A., has been appointed by the Governor of Kenya as the Maize and Produce Controller of the Colony and Protectorate.

Alderman E. Ewart Pearce, M.B.E., F.S.A.A., J.P., a Past President of the Incorporated Accountants' District Society of South Wales and Monmouthshire, has been elected chairman of the Finance Committee of the Cardiff City Council.

Mr. W. J. Crafter, F.S.A.A., has been appointed to the Boards of Samuel Williams & Sons Ltd., John Hudson & Co. Ltd., and the Hudson Steamship Co. Ltd.

Mr. B. J. W. Berman, A.S.A.A., has commenced public practice under the style of B. J. Berman & Co., Incorporated Accountants, at 5 Queensborough Court, Finchley, London, N.3.

Mr. Henry Brown, O.B.E., F.S.A.A., a member of the Council of the Society, has been appointed chairman of the London Trustee Savings Bank.

Messrs. Rushworth, Ingham & Rhodes, Incorporated Accountants, Bradford, announce that Mr. G. H. Ingham, F.S.A.A., has retired from the firm. They have admitted into partnership Mr. Allan Lee, A.S.A.A., and Mr. J. K. Clare, A.S.A.A. The style of the firm is unchanged.

Mr. B. P. McCarthy has been appointed managing director to Industrial Holdings (B.G.) Ltd., Georgetown, British Guiana. He was formerly secretary to the company.

Mr. A. Page-Wood, A.S.A.A., has been appointed accountant to Thesen Industries (Pty.) Ltd., Knysna, Cape Province, South Africa.

Messrs. John King & Son, Incorporated Accountants, Wigan, have changed the name of the firm to John Fairhurst & Tyer.

Mr. J. Keyse, A.S.A.A., is now practising under the style of John Keyse & Co., Incorporated Accountants, at 13 Boot Street, London, N.1.

Messrs. Rickard & Co., Incorporated Accountants, London, W.C.1., and Southend-on-Sea, announce that their senior partner, Mr. R. York Rickard, has retired from the firm but will continue to be available in a consultative capacity. The practice will be continued by the remaining partners under the same style and at the same addresses.

Messrs. Rickard, Chambers & Co., Incorporated Accountants, Worthing, London and Southend-on-Sea, announce that Mr. R. York Rickard has retired from the firm. The practice will be continued by the remaining partners under the same style and at the same addresses.

Mr. D. Hunter, A.S.A.A., York, has been joined in partnership by Mr. S. Gee, A.S.A.A. They are practising under the style of Hunter & Gee, Incorporated Accountants.

Mr. J. E. Ibbotson, A.S.A.A., has been appointed chief accountant of Whessoe Ltd., Darlington. We regret that the name of the company was wrongly spelt in our June issue.

The partnership between Mr. R. H. Munro, A.S.A.A., and Mr. V. D. Boorman, F.S.A.A., has been dissolved. Mr. Munro is continuing to practise as R. H. Munro & Co., at 2 Thames House, Queen Street Place, London, E.C.4. Mr. Boorman is practising at the same address under the style of Victor Boorman & Co.

Messrs. Allan, Charlesworth & Co., Chartered Accountants, announce that they have amalgamated their London and Liverpool firms and that Mr. E. P. D. Taylor, V.R.D., F.C.A., the resident partner in Liverpool, has become a partner in the combined firm.

Mr. G. Glanville Mullens, F.S.A.A., senior partner in Messrs. Mullens & Robinson, Port Talbot, has been appointed a magistrate for the borough of Port Talbot.

## Removals

Messrs. Hollings, Crowe, Storr & Co., Incorporated Accountants, have moved to Westgate Arcade, Otley.

Messrs. Lambert & Bailes have transferred their offices to Archbold Lodge, 19 Archbold Terrace, Jesmond, Newcastle upon Tyne, 2.

Messrs. Howard Pym & Hardy have removed to Belmore House, 87 Main Street, corner of Main and Harrison, Streets, Johannesburg.

Messrs. Barrowcliff, Russell, Baker & Co., Incorporated Accountants, have moved their London office to 4 Tokenhouse Buildings, King's Arms Yard, Moorgate, E.C.2.

Messrs. Portlock & Co., Incorporated Accountants, announce the removal of their offices to 8 Staple Inn, London, W.C.1.

Mr. J. H. Chown, Incorporated Accountant, has removed from Exeter to 151 West Way, Winton, Bournemouth.

## Obituary

### William Hadley Ashmole

WE DEEPLY REGRET to record that Mr. W. H. Ashmole, M.B.E., F.S.A.A., F.I.M.T.A., died on May 22, at the age of 80.

Mr. Ashmole was founder President of the Swansea and South-West Wales District Society of Incorporated Accountants when it was formed in 1926, and had previously been Vice-President of the South Wales and Monmouthshire District Society. He remained an active member of the Swansea Committee until his death.

He qualified as an Incorporated Accountant in 1901, and in the same year was appointed Borough Accountant of the newly-incorporated borough of Bethnal Green. After ten years there he was appointed Borough Treasurer of his native town, Swansea. The honour of M.B.E. was conferred upon him in recognition of his energetic leadership in the national savings movement during World War I: he was secretary of the Swansea committee, and later chairman for twenty-one years.

In 1923 he was compelled by ill-health to resign the office of Borough Treasurer. But it was not long before he recovered and was able to enter into partnership in the firm of Ashmole, Edwards & Goskar. He retired from the practice in 1940, but retained a number of directorships.

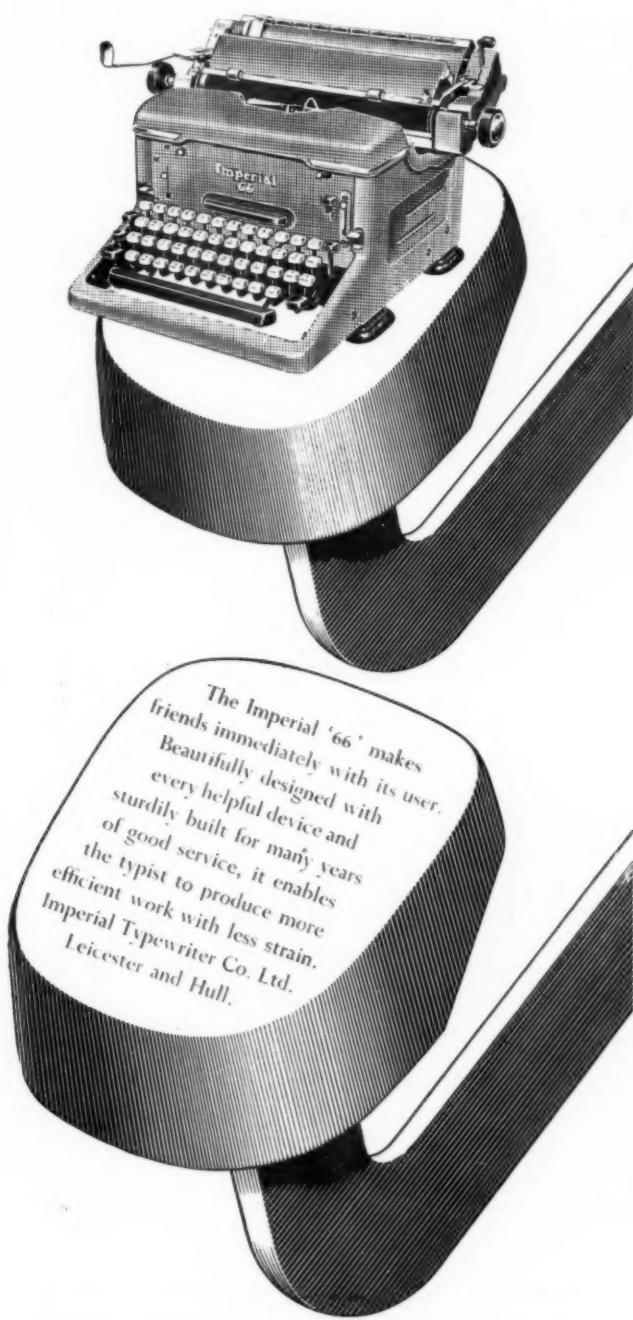
Mr. Ashmole was a magistrate in Swansea for a number of years. He was a past President of the Swansea Liberal Association, and a founder member and past President of Swansea Rotary Club.

He attended regularly the Methodist Synod at Cardiff, and represented the Cardiff and Swansea district at annual conferences of Methodists. He had held nearly all the lay offices at Brunswick Chapel, where he was trust treasurer until two years ago.

The funeral took place at Brunswick Chapel on May 26, and was attended by the Mayor of Swansea (Mr. Percy Morris) and by many representatives of the borough council, the Methodist Church, magistrates, the Swansea and South-West Wales District Society of Incorporated Accountants, the Swansea and South Wales Savings Bank, the National Children's Home, and professional and business concerns with which Mr. Ashmole had been associated.

### Maldwyn Edmund

WE HAVE RECEIVED with regret news of the death of Mr. Maldwyn Edmund, F.S.A.A., senior partner in Messrs. Maldwyn Edmund & Co., Johannesburg. Mr. Edmund became a member of the Society of Incorporated Accountants in 1916, and entered into practice in 1920 after a period in the Johannesburg Town Treasurer's Department. He was well known in the profession, having been Registrar for many years of the Transvaal Society of Accountants.



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## Classified Advertisements

Two shillings and sixpence per line (average seven words). Minimum ten shillings. Box numbers one shilling extra. Replies to Box Number advertisements should be addressed Box No. . . . , c/o ACCOUNTANCY, Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London W.C.2, unless otherwise stated. It is requested that the Box Number be also placed at the bottom left-hand corner of the envelope.

### APPOINTMENTS VACANT

**THE SOCIETY'S APPOINTMENTS REGISTER**  
Employers who have vacancies for Incorporated Accountants on their staffs and also members seeking new appointments are invited to make use of the facilities provided by the Society's Appointments Register. No fees are payable. All enquiries should be addressed to the Appointments Officer, Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London, W.C.2. Tel. Temple Bar 8822.

### BRITISH MEMORIAL FELLOWSHIP IN RETAIL BUSINESS ACCOUNTING AND ADMINISTRATION

Applications are invited for a Fellowship in Retail Business Accounting and Administration under the auspices of the Department of Accounting, University of Melbourne, Victoria, Australia.

The Fellowship carries a grant of £1,000 (Australian) which is intended to cover the cost of the voyage by sea to and from Melbourne and all expenses for a period of approximately ten months' study and research in the State of Victoria.

The Fellowship is available to the undermentioned:

1. Students of accounting or business administration.
2. Office-bearers in any chamber of commerce, federation of employers, association of retailers, or junior chambers of commerce.
3. Office-bearers or members of associations of accountants.
4. Office-bearers in associations of employees of retail businesses.
5. Executives of retail businesses.
6. Any person who has had extensive experience in business administration and accounting.

Applicants should not be over the age of thirty-five years on the 1st January, 1956.

All particulars are available from the Hon. Sir JOHN LIENHOP, Agent-General for Victoria and Chairman of the British Memorial Fund Committee, Victoria House, Strand, London, W.C.2. The closing date for the receipt of applications is the 5th August, 1955.

### THE SCOTTISH COLLEGE OF COMMERCE

**Principal:**  
Dr. Eric Thompson, M.A.(COM.), B.Sc.(ECON.)

**Senior Lectureship in Accountancy**

Applications are invited for the above post tenable in the Department of Accountancy of the College.

Candidates should be members of one of the recognised bodies of Accountants and should preferably have had some teaching experience: a university degree would be an additional recommendation.

Salary scale: Senior Lecturer Grade (b) £985 x £50 to £1,185 with placing on the scale according to qualifications and experience and the possibility of ultimate promotion to Grade (a) £1,085 x £50 to £1,285.

Further particulars may be obtained from the undersigned to whom applications accompanied by copies of three recent testimonials should be sent not later than July 11, 1955.

JOHN BUCHAN, A.A.C.C.A.  
Pitt Street, Glasgow, C.2  
Secretary.

**A COMMERCIAL** organisation offers a career in the Tropics with excellent prospects for young men up to age 30 who have had sound experience as assistant accountants or auditors. Applicants should preferably have a professional qualification though not essential. Initial salary not less than £950 per annum. Free furnished accommodation, generous family allowances and free medical services. Contributory pension fund providing certain guaranteed benefits which include widows' and children's pensions. Initial kit allowance £75. The appointments are in British West Africa. Tours of about 21 months each followed by substantial leave on full pay. First class passages are provided for men, their wives and children under 8. Write giving full details of experience and age to Box No. 8843, c/o CHARLES BARKER & SONS LTD., 31 Budge Row, London, E.C.4.

**A LEADING** firm of Chartered Accountants have vacancies in their Birmingham office for young newly or partly qualified men. Box No. 129, c/o ACCOUNTANCY.

**ACCOUNTANT** required by the NYASALAND GOVERNMENT, Public Works Department, for one tour of 2-3 years in first instance. Salary scale (including present temporary allowance of approximately 13% of salary) £708 rising to £1,306 a year. Commencing salary up to £1,063 a year according to war service and experience. Gratuity 10% of total salary drawn during contract. Outfit allowance £30. Free passages. Candidates, between 25 and 35 years, should have a good knowledge of Government or Local Government accounting procedure, or experience in cost accounting in a Civil Engineering firm. Membership of one of the recognised bodies of professional accountants an advantage. Write to the CROWN AGENTS, 4 Millbank, London, S.W.1. State age, name in block letters, full qualifications and experience and quote MIB/34359/AD.

**ACCOUNTANT** required for old-established concern in Holborn area, aged 30-40. Some professional experience and knowledge of machine accounting desirable. Commencing salary £700, good prospects, pension scheme. Apply Box No. 744, DORLAND ADVERTISING LTD., 18-20 Regent Street, London, S.W.1.

**ACCOUNTANT**, young, preferably qualified, for professional office in NAIROBI. Salary £840 p.a. initially rising £60 p.a.; bonus, pension and medical schemes. Four months paid home leave. Apply quoting: OSS.67/2, OVERSEAS TECHNICAL SERVICE, 5 Weldon Crescent, Harrow, Middlesex.

**ACCOUNTANTS** required by the GOVERNMENT OF THE NORTHERN REGION, NIGERIA, for the PUBLIC WORKS DEPT., for one tour of 15-24 months with prospect of permanency. Commencing salary according to experience in Salary Scale (including expatriation pay) £750 rising to £1,480 a year. Outfit allowance £30-£60. Free passages for officer and wife. Assistance towards cost of children's passages or grant up to £150 annually for maintenance in U.K. Liberal leave on full salary. Candidates must have had at least five years' extensive accountancy experience with a firm of Accountants, a Government Dept., a Bank, Local Authority or Public Company. They must have organising ability and also be able to control staff. Membership of one of the recognised bodies of professional accountants an advantage. Write to the CROWN AGENTS, 4 Millbank, London, S.W.1. State age, name in block letters, full qualifications and experience and quote MIB/34874/AD.

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**HAMPSTEAD BOROUGH COUNCIL** invite applications from qualified accountants for post of INTERNAL AUDITOR to take charge of Internal Audit Section. Salary APT IV, £675-£30-£825 plus London weighting, commencing at a point appropriate to the experience of the successful candidate. Apply, giving age, qualifications, experience, and three referees, not later than 4th July, 1955, to Town Clerk, Town Hall, Hampstead, London, N.W.3.

**HAMPSHIRE CHARTERED ACCOUNTANTS** require Senior Audit Clerks for main office, qualifications an advantage for progressive post. Pension scheme. Salary according to experience. Send full details to Box No. 155, c/o ACCOUNTANCY.

**IMPERIAL CHEMICAL INDUSTRIES LIMITED** has vacancies for recently qualified Accountants at its Metals Division, Kynoch Works, Witton, Birmingham. These posts offer attractive financial prospects and opportunities for promotion. Application forms may be obtained from Assistant Staff Manager, I.C.I. METALS DIVISION, Kynoch Works, Witton, Birmingham 6, quoting AC/4.

**JUNIOR** Audit clerk required by Chartered Accountants at Newport, Mon. Write Box No. 157, c/o ACCOUNTANCY.

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